

Ms. Pauline Gray, PE

Senior Engineer

Jay Engineering Company

Dear Ms. Gray-

We are in possession of your letter , dated April 13, 2021, to Dr. Larry Wallace, Mayor of the the City of Manor, related to recommendation of award of the City of Manor/Capital Metro 2020 paving improvements contract. As a local firm, we are disappointed in your proposed recommendation of award to another firm at an additional cost of nearly \$20000 to the Taxpayers of our area. Additionally, no attempt was made to advise us of this recommendation as a courtesy to us as low bidder, nor was any attempt to clarify any outstanding questions regarding qualifications.

Your letter to Mayor Wallace outlines several reasons for the logic behind the recommendation. I have outlined these as follows with applicable responses below.

“Bidders are required to submit satisfactory evidence that they have a practical knowledge of the work being bid upon, that they have adequate technical expertise for the type of work required and that they have the necessary financial resources to complete the work. The project references provided did not demonstrate that Forsythe Brothers Infrastructure, Inc (sic, Forsythe Brothers Infrastructure is an llc, not a corporation) has a practical knowledge and adequate technical expertise for the type of work being proposed for the project.”

As you are aware, a portion of this project requires the complete reconstruction (full depth repair) of portions of City streets in the project base bid. Our firm has expended resources already at our own risk to survey the existing roadway profile and side ditches to help develop a precise plan/profile for the project. It demonstrates our technical expertise to provide a proposed design profile for the project due to undulating vertical geometry. More importantly, our due diligence has noted several areas of potential drainage concern which will require adjustments to the proposed roadway cross slopes to avoid runoff ponding issues. Our firm also surveyed existing drainage structures and ditches to ensure profile of proposed drainage pipes would provide clear cover below roadway pavement subgrade. These considerations/engineering tasks are/were absent in the design plans.

Additionally, conversations with references would yield that on the 2019 Williamson County culverts repair project, our firm was tasked with over 700 lf of full depth roadway construction of a county road, with closures of the roadway limited only to daytime working hours. This constraint effectively requires the contractor to remove a portion of pavement daily, and process and compact that same section of pavement, while returning to traffic same day. This procedure is an order of magnitude more difficult than the proposed phasing plan for the subject project. This work among other local projects requiring significant flexible base construction work.

“There were no references provide for previous paving work included in the submittal.”

This statement is correct. Our firm does not install hot mixed asphaltic concrete pavement except within the context of smaller street or roadway repairs. You’ll refer to our post bid documents which state that Lone Star Paving company is our installer of choice for hot mix and overlay work. Any designer familiar with the paving industry understands their credentials, and that they install thousands of tons of hot mix weekly, from small parking lots or two lane city streets, to Interstate Highway work for the Texas Department of Transportation.

“During the financial review, it was noted that Forsythe Brothers Infrastructure, inc (sic) did not submit any credit sources either from their bank or vendors. “

Is the evaluator penalizing Forsythe Brothers Infrastructure, llc for being competent with financial resources? Our firm’s model is to typically fund projects out of pocket, and resist “30 days to pay” financing. This has always forced our firm to be the last to be paid on a project, but speaks to our integrity as a contractor that we willingly risk our own funds to complete projects. It’s a timeless business model which has allowed our firm to exist for 15 years.

“Reference information from their bank showed that their account balance has decreased by an order of magnitude within the last few months. “

The evaluator never asked for all sources of liquidity to our firm, such as money markets, or other liquid assets. Only our Independent Financial bank account was requested. Nor did the evaluator ask for open receivables, of which we currently are due nearly \$300000 USD. So transfer of funds to “non-bank” accounts certainly will lower the bank balance. Those other sources were never requested.

“Additionally, current bonding levels are at a little over 10% percent of their capacity, indicating a low volume of bonded work ongoing.”

As a taxpayer in the City, this statement is somewhat disconcerting as it indicates that the evaluator has an incomplete understanding of the Miller Act and the risk analysis associated with performance bonding. To state that a firm that can acquire performance and payment bonds (us) is only utilizing 10% (and actually that number is now 0% as we’re complete on another project as of this writing) bodes well for an Owner (taxpayer) because it shows that the exposure(leverage) of the contractor is low relative to it’s allowed capability. The statement in the letter to Dr Wallace would imply that operating a construction firm at near 100% of bonding capacity is a good thing; the opposite is true, as that firm would be leverage financially and would also likely have potential scheduling/crew commitment conflicts to overcome to schedule your project. Our firm is ready to go to work on the City of Manor 2020 Paving Improvements project yesterday because of the low bonded work to capacity ratio.

It is clear from the letter of recommendation that the City of Manor intends to award this project to Smith Paving. Given that we request the following:

1. Smith Paving be required to perform the work at the total bid cost as proposed by the low bidder, Forsythe Brothers Infrastructure, llc. This will save the citizens of the City of Manor nearly \$20000.
2. As I've spent a great deal of time driving and observing the work on the 2019 paving project performed by the same firm, we request that Smith Paving be required to return to that job site and correct deficiencies at their own expense prior to beginning the 2020 project. These deficiencies are as follows:
 - No concrete paving diamonds were cast around existing manholes as part of the final pavement surface. These are outlined on sheet 7 of the 2019 plan set.
 - Installation of safety end treatments along the route do not comply with the City of Manor standard detail for SET's. I request a site visit/meeting to address these concerns.Photos are attached for your convenience.

Thank you for taking the time to review our responses to the statements in the letter to Dr. Wallace. We request that this letter be included in the backup documentation during the recommendation of award. Thank you for allowing us to voice our concerns in writing and better represent the Taxpayers of Manor,

Best Regards,

Bill



Bill Forsythe PE

Forsythe Brothers Infrastructure, llc





