City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO. 1 D
COUNCIL MEETING 10/7/2010
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

October 7, 2010

FROM: PATRICK N. WIEMILLER, Director
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Traffic and Engineering Services Division

LALKUMAR GOONAWARDENA, PE, Design Services Manager
Public Works Department, Capital Management Division

SUBJECT:

1. ADOPT FINDING OF A CATEGORICAL EXEMPTION PER STAFF DETERMINATION, PURSUANT TO SECTION 15301 CLASS 1 (c) OF THE CEQA GUIDELINES, FOR THE HERNDON AVENUE GRIND AND OVERLAY FROM CEDAR AVENUE TO WILLOW AVENUE

2. AWARD A CONTRACT IN THE AMOUNT OF $1,078,905.59 TO DAVE CHRISTIAN CONSTRUCTION COMPANY OF FRESNO FOR THE HERNDON AVENUE GRIND AND OVERLAY FROM CEDAR AVENUE TO WILLOW AVENUE, BID FILE 3059 (LOCATED IN COUNCIL DISTRICT NO. 6)

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301 Class 1 (c) of the CEQA Guidelines, for the Herndon Avenue Grind and Overlay from Cedar Avenue to Willow Avenue.

2. Award a construction contract in the amount of $1,078,905.59 to Dave Christian Construction Company of Fresno, as the lowest responsive and responsible bidder for the Herndon Avenue Grind and Overlay from Cedar Avenue to Willow Avenue and authorize the Public Works Director or his designee to sign the contract on behalf of the City.

EXECUTIVE SUMMARY

On September 23, 2010, the Council adopted the 32nd Amendment to the Annual Appropriation Resolution to rebudget the Federal stimulus funds associated with street resurfacing projects. Due to favorable bids on the initial group of projects, staff was able to capture the savings and obtain approval from Fresno COG, Caltrans and the Federal Highway Administration (FHWA) for overlays on Herndon Avenue, Cedar Avenue and Friant Road. Public Works Department staff prepared construction contract documents for the Herndon Avenue Grind and Overlay from Cedar

to Willow Avenue. The scope of the project is to grind and overlay the existing pavement with 0.2 feet thick layer of asphalt pavement, re-striping, install new traffic loop detection and upgrade all wheelchair ramps to current ADA standards. The limits of paving are Herndon Avenue from Cedar Avenue to Willow Avenue. On August 26, 2010, five sealed bids were received by Purchasing Department and five bids were opened. Based on these bids, Dave Christian Construction Company of Fresno was determined to be the lowest responsive and responsible bidder. Staff recommends, that Council award a construction contract in the amount of $1,078,905.59 to Dave Christian Construction Company of Fresno and authorize the Public Works Director or his designee to sign the contract on behalf of the City.

BACKGROUND

In February 2009, President Obama along with Congress enacted the American Recovery and Revitalization Act (ARRA), which will provide approximately $27.5 billion in Highway Infrastructure formula funds. Pursuant to the ARRA, these funds are to be distributed by formula through the state and the metropolitan planning agency (MPO) to counties and cities. Fresno received approximately $9,063,900 in new highway formula funds that can be used for capital improvement projects (e.g., street maintenance, traffic signals) that are included in the Federal Transportation Improvement Program (FTIP) and/or do not negatively impact air quality. City responded by awarding 11 projects with initial estimates amounting to the allocated amount. However, due to the current economic condition and lower crude oil prices all low bids received for 11 projects amounted to $7 million. In order to use the remaining $2 million staff moved three projects forward from future Federal Overlay program to the 09/10 Federal fiscal year. Herndon Avenue Overlay from Cedar Avenue to Willow Avenue is one of the three projects moved forward to use the available funding. This project will place an asphalt overlay, replace all the impacted traffic signal loops and upgrade all wheelchair ramps to current ADA standards.

The Herndon Avenue Grind and Overlay Project from Cedar Avenue to Willow Avenue meets the criteria stipulated for ARRA funds. This project is to increase life of the pavement and provide a smooth riding surface for the motorists without increasing the capacity of the existing street. Staff determined under the CEQA Guidelines this project fits within the definition stipulated under "Existing Facilities" in 15301 Class 1 (c), as Categorically Exempt from further CEQA review.

A Notice Inviting Bids was published in the Business Journal on July 30, 2010, posted on the City's website and faxed to six (6) building exchanges. The specifications were distributed to twelve (12) prospective bidders. Five (5) sealed bid proposals were received and opened in a public bid opening on August 26, 2010, which ranged from $1,064,569 being the lowest, to $1,151,130.30 being the highest. The lowest bid of $1,064,569 submitted by Emmett's Excavation was determined to be non-responsive due to failure of Emmett's Excavation to submit required documentation with the bid at the time of the bid opening. Subsequently, Emmett's Excavation of Clovis appealed against the staff determination. At a hearing on September 27, 2010, the hearing officer upheld the staff determination. Based on the ruling of the hearing officer staff recommends that a construction contract be awarded to Dave Christian Construction of Fresno in the amount of $1,078,905.59 as the lowest responsive and responsible bidder. The contract amount is 6.9% below the Engineer's Estimate.

This project is located within the boundaries of City Council District 6.

CEQA COMPLIANCE

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in CEQA Guidelines, Section 15301(c) which exempts the repair and maintenance of existing facilities that involves negligible or no expansion of an existing use. This exemption applies because this project involves the resurfacing of an existing roadway and does not involve the expansion of the roadway to accommodate additional traffic. The purpose of the project is to increase life of the pavement and provide a smooth riding surface for the motorists. Furthermore, staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

CITY COUNCIL OPTIONS:

The City Council may take the following actions:

A. Adopt finding of a Categorical Exemption per staff determination, pursuant to Section 15301 Class 1 (c) of the CEQA Guidelines, for the Herndon Avenue Grind and Overlay from Cedar Avenue to Willow Avenue; and,

   Award a construction contract in the amount of $1,078,905.59 to Dave Christian Construction Company of Fresno, as the lowest responsive and responsible bidder for the Herndon Avenue Grind and Overlay from Cedar Avenue to Willow Avenue and authorize the Public Works Director or his designee to sign the contract on behalf of the City; **or**

B. Reject all bids.

The project will be completed within thirty (30) working days from the date of the Notice to Proceed.

However, in the event all bids are rejected a minimum of 60 days is required to rebid this project.

FISCAL IMPACT

The City will be reimbursed for all construction costs of this project, including construction inspection, construction engineering, construction, and potential incidental construction costs through a Federal American Recovery and Reinvestment Act (ARRA) Program grant.

PNW/EB/LG/SR/eam
Adopt Find Cate Exmpt & Awd Contract – Herndon, Cedar to Willow Overlay 9-16-2010

Attachments: Location Map
Bid Evaluation Proposals
Fiscal Impact Statement
Order Denying Appeal

VICINITY MAP

NOT TO SCALE

PROJECT LOCATION OF THE HERNDON AVENUE OVERLAY PROJECT FROM CEDAR AVENUE TO WILLOW AVENUE

CITY OF FRESNO
DEPARTMENT OF PUBLIC WORKS

EVALUATION OF BID PROPOSALS

FOR: ARRA – HERNDON AVENUE GRIND AND OVERLAY FROM CEDAR AVENUE TO WILLOW AVENUE

Bid File No.3059
Bid Opening: 8/26/10

BIDDER'S	BID AMOUNT
1. Emmett's Excavation, Inc. 1477 Menlo Ave. Clovis, CA 93611	$1,064,569.00 **Non responsive
2 Dave Christian Construction Co. Inc 2233 S. Minnewawa Fresno, CA 93727	$1,078,905.59
3. Granite Construction Co. 585 W Beach St Watsonville, CA 95076	$1,099,903.00
4. Western Paving P.O. Box 25368 Fresno, CA 93729	$1,101,798.53
5. American Paving Co. P.O. Box 4348 Fresno, CA 93744	$1,151,130.30
6. A. Teichert & Sons Dba: Teichert Construction 4533 E. Citron Ave. Fresno, CA 93725	$1,333,614.95

Each bidder has agreed to allow the City fifty (50) days from date bids are opened to accept or reject their bid proposal. Purchasing requests that you complete the following sections and return this bid evaluation to the Purchasing Division at the latest by Wednesday, September 22, 2010, 5:00 P.M.

The Engineer's Estimate for this expenditure is $1,159,986.50. The contract price is 6.9% below the Engineer's Estimate.

BACKGROUND OF PROJECT (To be completed by Evaluating Department/ Division. Explain need for project/equipment):

In February 2009, President Obama along with Congress enacted the American Recovery and Revitalization Act (ARRA), which will provide approximately $27.5 billion in Highway Infrastructure formula funds. Pursuant to the ARRA, these funds are to be distributed by formula through the state and the metropolitan planning agency (MPO) to counties and cities. Fresno received approximately $9,063,900 in new highway formula funds that can be used for capital improvement projects (e.g., street maintenance, traffic signals) that are included in the Federal Transportation Improvement Program (FTIP) and/or do not negatively impact air quality. City responded by awarding 11 projects with initial estimates amounting to the allocated amount. However, due to the current economic condition and lower crude oil prices all low bids received for 11 projects amounted to $7 million. In order to use the remaining $2 million staff moved 3 projects forward from future Federal Overlay program to the 09/10 federal fiscal year. Herndon Avenue Overlay from Cedar Avenue to Willow Avenue is one of the three projects moved forward to use the available funding. This project will place an Asphalt overlay, replace all the impacted traffic signal loops and upgrade all wheel chair ramps to current ADA standards.

EVALUATION OF BID PROPOSALS

FOR: ARRA – HERNDON AVENUE GRIND AND OVERLAY FROM CEDAR AVENUE TO WILLOW AVENUE

Bid File No.3059
Bid Opening: 8/26/10

DEPARTMENT CONCLUSIONS AND RECOMMENDATION:

[X] Award a contract in the amount of $1,078,905.59, to Dave Christian Construction Co. Inc., of Fresno as the lowest responsive and responsible bidder.

Remarks:

[ ] Reject all bids. Reason:

Department Head Approval

Title Asst. P.W. Director

Date 8/31/10

A DBE goal of 14 % was established for this project. The recommended Contractor complied with the DBE requirements pursuant to the bid specifications.

Beth McNeill 9/1/10
DBE Program Coordinator Date

[ ] Approve Dept. Recommendation

[ ] Approve GSD/Purchasing Recommendation

[ ] Disapprove

[ ] Disapprove

[ ] See Attachment

GENERAL SERVICES DEPARTMENT

Jason MacDonald 9/1/10
Purchasing Manager Date

Gerald Spodd 9/2/10
Director

CITY MANAGER

9/7/10
City Manager or Designee Date

Date

FISCAL IMPACT STATEMENT

PROGRAM: PW00566 ARRA – HERNDON AVENUE GRIND AND OVERLAY FROM CEDAR AVENUE TO WILLOW AVENUE

RECOMMENDATION	TOTAL OR CURRENT	ANNUALIZED COST
Direct Cost	$1,078,905.59	
Indirect Cost	$ 86,000.00	
TOTAL COST	$1,164,905.59	
Additional Revenue or Savings Generated		
Net City Cost	0	
Amount Budgeted (If none budgeted, identify source)		

Indirect costs consist of the following:

Construction Engineering: (Const. Manage., Surveying, Inspection, Contract Compliance)	$46,000.00
Construction Contingencies:	$26,000.00
Soils Lab/Testing:	$10,000.00
Project Management/Admin:	$ 2,000.00
Project Closeout:	$ 2,000.00
TOTAL	$86,000.00

JAMES C. SANCHEZ, City Attorney
CITY OF FRESNO
By: Robert R. Coyle, Senior Deputy, (133554)
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Fresno, California 93721-3602
Telephone: (559) 621-7500
Facsimile: (559) 488-1084

Attorneys for Respondent
CITY OF FRESNO

IN RE: CITY OF FRESNO BID FILE 3059-11510 (ARRA-HERNDON AVENUE GRIND AND OVERLAY FEDERAL PROJECT NO. ESPL-5060 (189)) - BID APPEAL FILED BY EMMETT'S EXCAVATION INC. OF CLOVIS, CALIFORNIA	Hearing Date: September 27, 2010 **ORDER DENYING APPEAL**

The Appeal Hearing was held on September 27, 2010 at 2:00 pm in the Public Meeting Room, Room 2165, Second Floor, Fresno City Hall, 2600 Fresno Street, Fresno California. As required, Council Resolution 2003-129 was the procedural and substantive authority followed by the Hearing Officer in conducting the hearing.

APPEARANCES

Appellant Representative(s):

Mike Hardy, Emmett's Excavation Inc. (employee)

Second Low Bid Representative(s):

Jim Christian, President, Christian Construction Co., Inc.

City Staff in attendance:

Jason MacDonald, City of Fresno Purchasing Manager

Bob Callistro, City of Fresno, Purchasing Department Supervising Buyer

Beth McDonell, City of Fresno, Purchasing Department DBE Coordinator

CITY ATTORNEY
CITY HALL
FRESNO, CA 93721

Robert R. Coyle, Senior Deputy City Attorney

FINDINGS

Upon consideration of the record on appeal and the documentary evidence and the testimony at hearing, the Hearing Authority FINDS THAT: the Appellant failed to timely complete and submit each and all of the DBE Certification, the DBE Listing Form and the Bid Proposal Form as required by BF 3059; the Appellant's failure to timely submit each and all of these Forms was not a minor irregularity/inconsequential discrepancy; the Appellant's failure to complete and timely submit each and all of the DBE Certification, the DBE Listing Form and the Bid Proposal Form as required by BF 3059 rendered appellant's bid nonresponsive; the Appellant is ineligible for the award.

DECISION

The appeal of Appellant, Emmett's Excavation Inc., is hereby DENIED.

DATED: September 28, 2010

Alan Yengoyan

ALAN YENGOYAN
Independent Hearing Officer

CITY ATTORNEY
CITY HALL
FRESNO, CA 93721