

**CITY OF TEMECULA  
AGENDA REPORT**

**TO:** City Manager/City Council

**FROM:** Ron Moreno, Director of Public Works/City Engineer

**DATE:** November 12, 2024

**SUBJECT:** Reject All Construction Bids Received for Park Restrooms Renovations, Expansion and Americans with Disabilities Act Improvements Project, PW17-06, and Authorize Construction Contract to be Re-Bid

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**PREPARED BY:** Nino Abad, Senior Civil Engineer  
Laura Bragg, Associate Engineer II

**RECOMMENDATION:** That the City Council:

1. Reject all construction bids received for the Park Restrooms Renovations, Expansion and Americans with Disabilities Act (ADA) Improvements Project, PW17-06; and
2. Authorize the Department of Public Works to re-bid construction contract for the Park Restrooms Renovations, Expansion and Americans with Disabilities Act (ADA) Improvements Project, PW17-06.

**BACKGROUND:** On September 12, 2023, City Council approved the plans and specifications and authorized the Department of Public Works to solicit construction bids for the Park Restrooms Renovations, Expansion and Americans with Disabilities Act (ADA) Improvements Project, PW17-06.

The Park Restrooms Renovations, Expansion and Americans with Disabilities Act (ADA) Improvements, PW17-06, will consist of interior tenant improvements of an existing park concession room and storage room within a restroom building at the North/South Baseball Fields at the Ronald Reagan Sports Park. Improvements to include new pass-thru windows, American with Disabilities Act (ADA) compliant cabinetry and replacement of concession room plumbing and electrical. Restroom improvements are not a part of this project with the exception of the addition of hot water to the two restroom sinks. ADA path of travel to and into the concession room was improved as part of a different project to make it compliant.

The construction contract was publicly advertised between August 10, 2024, and September 5, 2024. Eight (8) bids were received and publicly opened on Thursday, September 5, 2024. Staff has completed the evaluation of the bids and has determined three (3) of the bids to be non-responsive.

The results are as follows:

	Contractor	Bid Amount
1	Leonida Builders Inc.	\$247,800.00
2	Thompson General Construction	\$248,000.00
3	US Builders & Consultants	\$248,339.00
4	HZS Engineering Inc	\$257,000.00
5	M. Brey, Inc	\$265,000.00
	Reed Family Enterprises Inc.	Non-Responsive
	LGC Construction	Non-Responsive
	CornerstoneCC	Non-Responsive

The bid submitted by Reed Family Enterprises Inc. has contract work listed for Subcontractors equal to 61% of the Contract Price. Per the contract documents, the Contractor must self-perform at least 50% of the work, therefore, the bid was deemed non-responsive.

LGC Construction did not submit a valid Bid Bond, stating that their bonding company advised them that the bond was not required at this time. A Bid Bond is due at the time of bid opening, therefore, the bid was deemed non-responsive.

CornerstoneCC submitted an incomplete bid. This Bidder did not submit Bid Sheets, Subcontractors List/Bidders List, Statement of Technical Ability and Experience, Bidder's Statement of Past Contract Disqualifications, Non-Collusion Affidavit, or Bidder's Agreement, therefore, the bid was deemed non-responsive.

### **BID PROTEST OF REED FAMILY ENTERPRISES**

Reed Family Enterprises, Inc. ("RFE") filed a bid protest of the determination of the Director of Public Works that its bid for the Project was non-responsive. The Director based his decision on RFE's failure to comply with the "self-performance" requirement that at least 50% of the work must be performed by the contractor with its own organization and not by subcontractors. By letter dated October 4, 2024, attorney Daniel P. Scholz of Finch-Thorton-Baird, alleges that the 50% self-requirement cannot be applied here because it was not specifically described in the Bid Documents.

This is not correct. The self-performance requirement is a part of the Standard Specifications (the "Greenbook") that were incorporated into the Bid Documents with ample warning to the bidders that the Standard Specifications would govern work on the Project. (See section entitled "Standard Specifications" at page GS-1 of the Bid Documents.)

**DISCUSSION:** Staff recommends that all bids be rejected, and that the construction contract be re-bid. There is a significant disparity between the three lowest bids received, although disqualified as non-responsive, and the five highest bids. The three lowest bids range from \$158,555 to \$207,069 and the five highest bids range from \$247,800 to \$265,000, with an engineer's estimate of \$250,000. Staff recommends that all bids be rejected, and that the Project be re-bid due to the potential for a bid protest lawsuit delaying construction of this project for up to one (1) year.

**FISCAL IMPACT:** There is no fiscal impact to rejecting all bids.

**ATTACHMENTS:** Reed Family Enterprises Bid Protest Letter dated October 4, 2024