



CITY COUNCIL AGENDA STATEMENT



February 16, 2021

File ID: 21-0029

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA (1) RESCINDING CITY COUNCIL RESOLUTION NO. 2021-001 AND CANCELLING THE AWARD OF THE CONTRACT FOR THE "MAJOR PAVEMENT REHABILITATION FY 2018/2019 (STM0397)" PROJECT TO FRANK AND SON PAVING, INC. AND (2) AWARDED THE PROJECT CONTRACT TO THE NEXT APPARENT LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, HAZARD CONSTRUCTION COMPANY, IN THE AMOUNT OF \$2,082,419.70

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

On January 5, 2021, the City Council adopted Resolution No. 2021-001 awarding the "Major Pavement Rehabilitation FY 2018/2019" (STM0397) project (Project) contract to Frank and Son Paving, Inc. in the amount of \$2,044,644.72.

On January 7, 2021, City staff issued a Notice of Award to Frank and Son Paving, Inc. notifying it of the Project award and the 10-day requirement to send the required Bond for Material and Labor, Bond for Faithful Performance, Certificates of Insurance, Guarantee, Non-Collusion Affidavit, and Worker's Compensation Insurance Declaration, with a due date of January 22, 2021.

On January 21, 2021, upon receipt of a request from Frank and Son Paving, Inc., City staff granted a one-week extension, until January 29, 2021, to complete and provide the required bonds for the Project. Frank and Son Paving, Inc. did not complete and provide the required bonds by that date.

Due to Frank and Son Paving, Inc.'s failure to timely complete and provide the required bonds in accordance with Section 10 of the Bid Proposal and Conditions and the Bidder's Bond To Accompany Bid Proposal, staff recommends: (1) rescinding City Council Resolution No. 2021-001 and cancelling the award for the Project contract to Frank and Son Paving, Inc. and (2) awarding the Project contract to the next apparent lowest responsive and responsible bidder, Hazard Construction Company, in the amount of \$2,082,419.70.

ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Categorical Exemption pursuant to State CEQA Guidelines Section 15301 Class 1 (Existing Facilities), Section 15302 Class 2

(Replacement or Reconstruction), and Section 15303 class 3 (New Construction or Conversion of Small Structures) because the proposed actions would not result in a significant effect on the environment, create a cumulative impact, damage a scenic highway, or cause a substantial adverse change in the significance of a historical resource. Thus, no further environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On January 5, 2021, the City Council adopted Resolution 2021-001 awarding the contract for the “Major Pavement Rehabilitation FY 2018/2019” (STM0397) project (Project) to Frank and Son Paving, Inc. in the amount of \$2,044,644.72.

On January 7, 2021, City staff issued a Notice of Award notifying Frank and Son Paving, Inc. that it was required, per the Project’s bid specifications/requirements, to complete and provide a Bond for Material and Labor, Bond for Faithful Performance, Certificates of Insurance, Guarantee, Non-Collusion Affidavit, and Worker’s Compensation Insurance Declaration by no later than ten (10) days after Project award, or January 22, 2021. These requirements are standard in public works procurements in order to ensure timely delivery of capital projects in a manner that protects against risks to public agencies.

On January 21, 2021, Frank and Son Paving, Inc. requested a one-week extension to submit the required Bond for Material and Labor and Bond for Faithful Performance. The City granted the one-week extension with a new due date of January 29, 2021, to submit the required bonds. Frank and Son Paving, Inc. did not complete and provide the required bonds by that date.

On February 2, 2021, staff notified Frank and Son Paving, Inc. that it had failed to timely complete and provide the Project bonds and that City staff intended to recommend rescinding the award to Frank and Son Paving, Inc. and proceed with award of the Project contract to the next apparent low bidder.

Due to Frank and Son Paving, Inc.’s failure to timely complete and provide the contract documents in accordance with Section 10 of the Bid Proposal and Conditions and the Bidder Bond to Accompany Bid Proposal, staff recommends: (1) rescinding City Council Resolution No. 2021-001 and cancelling the award Project contract to Frank and Son Paving, Inc. and (2) awarding the Project contract to Hazard Construction Company in the amount of \$2,082,419.70.

In addition, staff intends to pursue forfeiture of the security in Frank and Son Paving Inc.’s Bidder’s Bond in the amount of \$37,774.98 to cover the difference between Frank and Son Paving Inc.’s bid price and Hazard Construction Company’s bid price.

Hazard Construction Company’s license, Contractor’s License No. 750542, as well as all listed subcontractors’ licenses, are current and active as of February 2021. Hazard Construction Company has performed similar work in the region with satisfactory performance. Staff’s review of Hazard Construction Company’s bid determined it to be responsive and Hazard Construction Company to be responsible. Therefore, Staff recommends awarding the contract to Hazard Construction Company in the amount of \$2,082,419.70.

Disclosure Statement

Attachment 2 is a copy of the Contractor's Disclosure Statement.

Wage Statement

The Contractor that is awarded the contract and its sub-contractors are required to pay prevailing wages to persons employed by them for work under this contract. The prevailing wage scales are those determined by the Director of Industrial Relations, State of California.

Change Orders

Chula Vista Municipal Code section 2.56.160.C.2 authorizes the City Engineer to approve change orders up to the remaining CIP budget available for this CIP project.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council and has found that Mayor Salas and Councilmember McCann have property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. However, the decision solely concerns repairs, replacement, or maintenance of existing streets, water, sewer, storm drainage, or similar facilities, and the Councilmembers' properties will not be affected disproportionately to other properties receiving the same services. Consequently, pursuant to California Code of Regulations Title 2, sections 18700 and 18702.2(d)(1), this item does not present a real property-related conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

CURRENT-YEAR FISCAL IMPACT

Sufficient funding is available in STM0397 to award the contract. The following is a summary of anticipated project costs:

FUNDS REQUIRED FOR CONSTRUCTION	
A. Contract Amount	\$2,082,419.70
B. Contract Contingency (Approx. 6%)	\$120,023.83
C. Construction Inspection (Approx. 12%)	\$323,000.00
D. Project Closeout (Approx. 2%)	\$50,000.00
TOTAL FUNDS REQUIRED FOR CONSTRUCTION	\$ 2,575,443.53

AVAILABLE FUNDING	
A. Transnet - STM0397 (Acct#: STM0397-227)	\$ 2,460,118.53
B. CalRecycle Grant - STM0397 (Grant#: TRP10-18-0049)	\$89,525.00
C. Appropriated Funds (Sewer Facility Replacement Fund)	\$25,800.00
TOTAL FUNDS AVAILABLE FOR CONSTRUCTION	\$ 2,575,443.53

ONGOING FISCAL IMPACT

Upon completion of the project, the improvements will require routine street maintenance.

ATTACHMENTS

Attachment 1 – Notice of Failure to Complete and Provide Contract Documents

Attachment 2 – Contractor's Disclosure Statement

Staff Contact: Jose Luis Gomez, Principal Civil Engineer