Staff Report

REPORT 19-0285

Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of May 14, 2019

AWARD OF CONSTRUCTION CONTRACT FOR CIP 14-173,
8TH STREET IMPROVEMENTS PROJECT
(Acting Public Works Director Lucho Rodriguez)

Recommended Action:
Staff recommends that the City Council:

1. Award a construction contract to the lowest bidder, Concept Consultant, Inc., for CIP14-173 8th Street Improvements Project in the amount of $561,950.50, unless Council finds the low bid to be unresponsive based on the information in this staff report.
2. If Council determines that the low bidder’s bid is unresponsive, award construction contract to 2nd lowest bidder, Gentry General Engineering, Inc. for $714,000;
3. Authorize the Mayor to execute the construction contract and the City Clerk to attest, subject to approval by the City Attorney;
4. Authorize a 20% project contingency for a total construction budget of $674,340.60 (Concept) or $856,800.00 (Gentry); and
5. Authorize the Acting Director of Public Works to file a Notice of Completion following final completion of the project.

Executive Summary:
Staff requests that City Council consider award of a construction contract, including contingency, to Concept Consultant, Inc. in the amount of $674,340.60 or, if Concept's bid is found to be unresponsive, to Gentry General Engineering, Inc. $856,800.00 for the 8th Street Improvements Project on 8th Street from Valley Drive to Hermosa Avenue.

Background:
Capital Improvement Project (CIP) 14-173 is along 8th Street, which is an east-west roadway with one lane in each direction, has on-street parking, and provides connectivity from Pacific Coast Highway to the beach area.

The project’s scope between Hermosa Avenue and Valley Drive consists of upgrading sidewalks to
provide a continuous path of travel consistent and in compliance with the Americans with Disabilities Act (ADA). The project would bring all curb ramps and driveways current to ADA standards.

At the November 13, 2018 City Council meeting, staff presented a project update, and Council directed staff to move forward with completion of the design phase of the project. Completion of the design phase includes finalizing the plans, specs and estimates to 100% completion to implement a four-foot-wide sidewalk path. At this meeting, Council also approved the recommendation to conduct a final project walk-through/field review meeting on December 19, 2018 with 8th street residents.

On March 14, 2019, City Council was provided an Information Item that City staff would be advertising the 8th street project for construction bids.

**Analysis:**

The project was advertised on March 14th and March 21st in the Easy Reader, via the City Website and with bid advertising agencies. Three (3) bids were received and opened on April 4, 2019. The bid results are summarized below:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concept Consultant, Inc.</td>
<td>$561,950.50</td>
</tr>
<tr>
<td>Gentry General Engineering, Inc.</td>
<td>$714,000</td>
</tr>
<tr>
<td>PALP, Inc DBA EXCEL paving</td>
<td>$1,170,650</td>
</tr>
</tbody>
</table>

The apparent low bidder is Concept Consultant, Inc. (Concept) with an original bid amount of $569,843.50. However, the calculations on the bid were erroneous and the total was reduced to $561,950.50 by staff as per bid document directions. This miscalculation was confirmed with Concept.

After the math correction, staff proceeded to perform the bid documents review to determine if the low bidder is responsible and responsive. In order to be eligible for project award, a bidder must be “responsible” and the bid must be “responsive.” A bidder is responsible if it has the requisite qualifications, expertise, financing and licensing to perform the project. A bid is responsive if it satisfies the minimum requirements set forth in the bid documents. Staff identified two issues of concern that speak to the question of whether the bid is responsive, and one that speaks to the question of responsibility:

**Responsiveness**

- Staff checked the references provided by Concept on the construction project reference form per **Attachment 1**. The references provided by Concept Consultant Inc. were contacted and
came back with positive reviews regarding the completion of the projects. However, although Concept completed the projects submitted for reference, these projects were not similar to the scope of work or magnitude of the 8th Street project. As described in the instruction to bidders section found in the projects contract documents under the bidder qualifications heading, “Contractor shall provide a minimum of 3 references for similar projects of similar size, scope and magnitude, which have been successfully completed in the State of California during the past 5 years”. The referenced work provided by Concept did not include ADA compliant access ramp work or extensive concrete sidewalk work.

- The bid documents require that no more than 49% of the work may be subcontracted per Attachment 2; the general contractor must perform 51% of the work with its own staff. In response to staff’s request, Concept provided copies of its subcontractor bids, which disclose that subcontractors would be performing 54% of the work, as follows:
  - The bid for concrete work from V-ditch is $250,070 which is 44.5% of the total contract of $561,950.50.
  - The bid from the traffic control subcontractor is 8% of the total bid price.
  - The bid from the handrails’ subcontractor is 1.5% of the total bid price.

Hence, Concept would be performing less than 49% of the work with its own employees. In addition, Concept did not identify a subcontractor for paving and striping. When queried about that omission, Concept stated that it has no qualified employees on its team presently but intends to hire qualified employees to perform this work. This is an atypical but legal practice for specialty work of this kind.

According to the City Attorney, Concept’s bid may be rejected as unresponsive because it does not satisfy the 51% requirement. The City Attorney also advises that this discrepancy would be waivable by the City Council, since it is a local / contract requirement, not statutory, if it does not give the bidder an advantage over other bidders.

- Concept’s contractor’s license is active but the Contractor’s State License Board website identifies pending administrative proceedings involving the license. While the Labor Commissioner’s office cannot provide records for any ongoing investigations, staff was provided with four different case numbers of Civil Wage and Penalty Assessments issued against Concept Consultant by the Department of Industrial Relations (DIR), however staff could not obtain further details. Without more information, these pending matters create possible concern but cannot serve as evidence of non-responsibility.

During the review of Concept’s bid documents, the City Attorney suggested that staff reach out to the surety company and ascertain if the surety would offer full Performance and Payment Bonds for the full bid amount, in view of the significant spread between the low bid and the second low bid. If the low bid is too low and the contractor cannot complete the project, the surety would be obligated to
Staff Report

REPORT 19-0285

step in and at its expense hire a contractor to complete the job. While this provides the City with protection, it is also a time-consuming process that would delay completion of the project. Hence, the City Attorney wanted assurance from the surety that it was aware of the bid spread and would nonetheless issue a performance bond for the project. The surety provided a letter acknowledging the bid spread and stating that it would issue the bonds. The letter is included here as Attachment 3.

Concept is fully aware of all of the above inquiries and issues and its owner has assured Staff that Concept will deliver the 8th street project on time and on budget per plans and specifications. He has further stated that Concept takes pride in its work and guaranteeing that will be completed correctly.

The second lowest bidder is Gentry General Engineering Inc. for an amount of $714,000, which is $152,049.50 (27%) higher than the low bidder. Staff carefully checked the second lowest bidder documents, included as Attachment 4 and found them to be compliant. Their projects were found to be of the same scope and magnitude and their Contractors license board record is clean. The engineer’s estimate prepared by the project designer is $714,550 which is also 27% higher than the low bidder’s price.

Council would need to make a determination to waive the 51% requirement and award the project to Concept, or alternatively, determine that Concept’s bid is unresponsive and award the contract to Gentry.

Construction for this project is anticipated to begin in early June. Notifications of commencement of construction would be sent to all residents of 8th Street several weeks prior to the beginning of construction alerting them of the construction dates, what to expect during construction, and phone numbers for the key personnel involved with the construction of the project. The project’s construction duration is for 50 working days or approximately 10 weeks. A continuous safe pedestrian route would be maintained on 8th street during the construction of this project. Final plans are provided as Attachment 5. A draft agreement is included as Attachment 6.

General Plan Consistency:

PLAN Hermosa, the City’s General Plan, was adopted by the City Council in August 2017. PLAN Hermosa was divided into seven elements, each with multiple goals. The creation of a complete and connected sidewalk network along 8th Street would help accomplish several goals of the Mobility and Infrastructure Elements.

Mobility

Goal 3. Public rights-of-way supporting a multimodal and people-oriented transportation system that provides diversity and flexibility on how users choose to be mobile.
Policies

3.2 Complete pedestrian network. Prioritize investment in designated priority sidewalks to ensure a complete network of sidewalks and pedestrian-friendly amenities that enhances pedestrian safety, access opportunities and connectivity to destinations.

3.10 Require ADA standards. Require that all public rights-of-way be designed per Americans with Disabilities Act (ADA) standards by incorporating crosswalks, curb ramps, pedestrian signals, and other components to provide ease of access for disabled persons.

Goal 7. A transportation system that results in zero transportation-related fatalities and which minimizes injuries.

Policies
7.5 Appropriate sidewalk widths. Encourage design and construction plans that incorporate sidewalks that are consistent in width to match pedestrian activity.

Infrastructure
Goal 2. Roadway infrastructure maintenance supports convenient, attractive, and complete streets and associated amenities.

Policies
2.3 Street and sidewalk standards. Require the use of standardized roadway, sidewalk, parkway, curb and gutter designs to ensure continuity and consistency as property redevelops over time.

Fiscal Impact:
Contingency: Staff recommends a construction contingency of 20% of the total construction amount for this project for any unknowns that could be encountered during the construction phase. Therefore, staff anticipates the construction budget to be as follows:

Concept Consultant, Inc.:
Construction Contract $561,950.50
20% Contingency $112,390.10
Total Construction Cost $674,340.60

Gentry General Engineering, Inc.:
Construction Contract $714,000.00
20% Contingency $142,800.00
Total Construction Cost $856,800.00
$1,002,276.90 is currently available to cover construction costs for this project, the details of the available funds is as follows:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Account #</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Gas Tax Fund</td>
<td>115-8173-4201</td>
<td>$325,744</td>
</tr>
<tr>
<td>Tyco Fund</td>
<td>122-8173-4201</td>
<td>$13,560</td>
</tr>
<tr>
<td>Grants Fund</td>
<td>150-8173-4201</td>
<td>$354,535</td>
</tr>
<tr>
<td>Capital Improvement Fund</td>
<td>301-8173-4201</td>
<td>$308,438</td>
</tr>
<tr>
<td><strong>Total Funding</strong></td>
<td><strong>115-8173-4201</strong></td>
<td><strong>$1,002,277</strong></td>
</tr>
</tbody>
</table>

There are sufficient funds appropriated to the project to cover the cost of the construction contract and 20% contingency.

**Attachments:**

1. Construction Project Reference Form (Concept Consultant, Inc.)
2. Designation of Subcontractors Form (Concept Consultant, Inc.)
3. Surety Letter
4. Second lowest bidder contract documents (Gentry General Engineering, Inc.)
5. Final Plans
6. Draft Agreement

Respectfully Submitted by: Reed Salan, Associate Engineer
Concur: Lucho Rodriguez, P.E., Acting Director of Public Works
Noted for Fiscal Impact: Viki Copeland, Finance Director
Legal Review: Mike Jenkins, City Attorney
Approved: Suja Lowenthal, City Manager