



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Hans F. Larsen
David Sykes

**SUBJECT: BRIDGE AND PAVEMENT
GENERAL MAINTENANCE
CONTRACT**

DATE: April 30, 2012

Approved

Date

5/9/12

RECOMMENDATION

Report on bids and award of a contract for general bridge and pavement maintenance work referred to as "6960 – DOT Pavement General Engineering Contract 2011-2012" to the lowest responsive bidder, Wattis Construction Co., Inc. in the amount of \$200,000.

OUTCOME

The recommended action will enable a series of individual projects to occur as needed to maintain, repair or improve existing vehicular bridge and street related infrastructure in the City of San José.

BACKGROUND

The Department of Transportation (DOT) is responsible for the maintenance and repair of 162 vehicular bridges, 2400 miles of pavement, and other street related infrastructure. On an ongoing basis, DOT retains the services of a construction contractor to supplement existing in-house maintenance and repair capabilities as needed. To continue having contractual general maintenance services available for DOT, a new service contract was recently advertised for bids.

This contract includes a variety of scheduled and emergency activities, including repair, reconstruction, grinding, patching and crack sealing of pavement surfaces; repair of concrete curbs, gutters, stairs, sidewalks, median islands, planters and walls; reconstruction and repair of underground utility and drainage structures; concrete sawing; traffic barrier replacement and relocation; repair and replacement of signs, railings, and fencing next to bridges; installation of permanent striping/markings and pavement markers on city streets; and other miscellaneous activities.

ANALYSIS

Bids for this project were received on March 1, 2012, with the following results:

| No. | BIDDER'S NAME | CITY | BID AMOUNT % MARKUP |
|-----|------------------------------|--------------|------------------------|
| 1. | GradeTech, Inc. | San Ramon | 3.90% |
| 2. | Wattis Construction Co., Inc | San Jose | 4.85% |
| 3. | C.F. Archibald Paving, Inc. | Redwood City | 14.73% |
| 4. | Golden Bay Construction | Hayward | 14.97% |

Staff reviewed the bid proposal for the low bidder, GradeTech, Inc. and determined that it is non-responsive because GradeTech did not possess the required licenses to bid the job. The requirement as stated in the Notice to Contractors section of the bid package is as follows:

CONTRACTOR'S LICENSE REQUIREMENTS

All prospective bidders are hereby cautioned that the Contractor's State License Law regulates contractor-licensing matters. The Contractor, in its bid proposal, shall be required to disclose its license type, number, and expiration date. Bidders must have all California contractors' license classifications A, C-8, and C-12 to bid this project.

On March 7, 2012, City staff issued a Notice of Intent to Award the contract to Wattis Construction Co., the second low bidder. Subsequently, staff received a protest letter from GradeTech, Inc. dated March 12, 2012. In its protest letter, GradeTech correctly states that an "A" license allows it to perform the same kind of work as a contractor with a C-8 and C-12 license. GradeTech also offered to supply a statement that it is qualified to perform the work. A copy of the protest letter from GradeTech is included as an attachment. It is well established that a public entity awarding a construction contract has broad discretion to determine the required license classifications for a project. Indeed, when City staff contacted the California State Licensing Board regarding the protest, the Board confirmed that the City is free to specify whichever combinations of licenses the City believes is best suited to successfully accomplishing the work.

The scope of work for the contract at issue involves a contractor providing a variety of work, including maintenance, repair and improvement of existing vehicular bridge and street-related infrastructure. Some of the work under the contract will be scheduled. Other work under the contract will be on an emergency basis. An "A" license is a general engineering license, authorizing a contractor to perform a wide array of engineering work. A C-8 license is a specialty license for concrete work; a C-23 license is a specialty license for earthwork and paving. Given the scope of work, City staff felt that specifying the combination of the three licenses was the best way of obtaining a contractor with the full compliment of skills, experience and resources to proficiently, expeditiously and successfully perform the wide variety of required work with a

minimum need for subcontractors. Requiring the combination of three licenses for these reasons is well within the City's authority.

In conclusion, staff recommends rejecting the bid submitted by GradeTech and awarding the contract to the second lowest bidder, Wattis Construction Co., Inc. All bid documents have been evaluated and found to be in order.

The duration of the contract is for a three year period beginning in June 2012, or until total billings equal to \$200,000 whichever comes first.

EVALUATION AND FOLLOW-UP

The Bridge and Pavement General Maintenance Contract will contribute towards meeting the City's outcome of preserving and improving transportation assets and facilities. No follow up action with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative: Reject all bids and re-bid the project utilizing a statement of qualifications or other method to qualify contractors.

Pros: Potential for lower bid prices.

Cons: Potential for higher bid prices; additional staff time and costs to re-bid project; the time needed to complete a new bid and award process would delay the ability to perform needed maintenance and repair work.

Reason for not recommending: The City has the authority to specify the licenses it wants the contractor to have, and in specifying the contractor license classifications as it did, the City utilized an accepted process for ensuring that the contractor selected could perform the required work. Changing the contractor selection method and rebidding the project delays the start of the project, requires additional staff time and costs, and does not guarantee that prices received for this project will be better. The bid prices received for this project are good and staff is confident that Wattis Construction Co., Inc. can successfully complete the project.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or

a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This project does not meet any of the above three criteria, however this memorandum will be posted on the City's website for the May 22, 2012 Council Agenda.

To solicit contractors this project was listed on Bidsync and advertised in the *San José Post Record*; bid packages for this construction project were also provided to various contractor organizations and builders' exchanges. In addition, when the project commences, the contractor, as stated in the specifications, will provide advance notification regarding working hours, duration of project, and any appropriate schedule and lane closures to affected businesses and residents. To inform traveling motorists of upcoming construction activities and potential traffic delays, changeable message signs may be used on selected streets stating the schedule dates and time for work to occur on the street.

COORDINATION

This memo has been coordinated with the City Attorney's Office and City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This project supports the Transportation and Aviation Services City Service Area goal to *Preserve and Improve Transportation Assets and Facilities*.

COST IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:
Construction Contract \$200,000
TOTAL PROJECT COST: \$200,000

2. SOURCE OF FUNDING: 480 – Gas Tax – Pavement Maintenance
465 – Construction Excise Tax

3. OPERATING COST: This project will have no net operating and maintenance costs to the General Fund.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum, including project delivery and construction costs.

HONORABLE MAYOR AND CITY COUNCIL

April 30, 3012

Subject: **Bridge and Pavement General Maintenance Contract**

Page 5 of 5

| Fund # | Appn # | RC # | Appn. Name | Total Appn | Amt. for Contract | 2011-2012 Adopted Capital Budget Page | Last Budget Action (Date, Ord. No.) |
|--|--------|--------|---------------------------------------|--------------------|-------------------|---------------------------------------|-------------------------------------|
| 465 | 5216 | 168630 | Gas Tax - Pavement Maintenance | \$7,718,000 | \$125,000 | V-788 | 10/18/11; Ord. No. 28979 |
| 465 | 5432 | 033833 | Bridge Maintenance and Repair | \$109,524 | \$75,000 | V- 787 | 10/18/11; Ord. No. 28979 |
| Total Current Funding Available = | | | | \$7,827,524 | \$200,000 | | |

CEQA

Exempt, File No. PP11-102.

/s/
HANS F. LARSEN
Director of Transportation

/s/
DAVID SYKES
Director of Public Works

For questions please contact Rene Isaac Cordero, Division Manager, at (408) 794-1986.

Attachment

Grade Tech Inc.

General Engineering Contractor
Lic. A628365

March 12, 2012

Ramon L. Montenegro
Project Manager
Department of Transportation
Infrastructure Maintenance Division
1404 Mabury Road, 2nd Floor
San Jose, CA 95133

PROTEST OF NOTICE OF INTENT TO AWARD CONTRACT for 6960-DOT Pavement General Engineering Contract 2011-2012

Mr. Montenegro

GradeTech formally protests the intent to award of the above referenced project to Wattis Construction as GradeTech is the responsive low bidder. GradeTech holds a General Engineering Class A license which covers the specialties C-8 - Concrete Contractor & C12 - Earthwork and Paving work. GradeTech had, prior to the bid, contacted the California State Licensing board and received a verbal clarification that we were appropriately licensed to perform the above contract with only an "A" License. We strongly encourage the City to contact the State licensing Board to clarify Licensing requirements. We understand that the City wanted to qualify contractors for this contract but this should be done through a statement of qualifications requirement. GradeTech has performed the work required in the bid documents on many contracts with the City of San Jose and many other municipalities over the last 20 plus years and is currently contracted on multiple contracts doing similar work for the City of San Jose. GradeTech was even awarded a Commendation by the City of San Jose Mayor (See attached) for a project involving specialty C-8 - Concrete Contractor & C12 - Earthwork and Paving work which was performed under our "A" License. GradeTech is qualified and experienced in the specialties requested on this contract and should be awarded said contract. GradeTech upon request will supply a statement of qualifications that will satisfy the City as to GradeTech's experience in Concrete & Earthwork/ Paving Construction. It should be noted that two of the four bidders on this project did not hold all of the specialties in addition to the A license. An "A" license supersedes and makes redundant the need for any specialty licenses and though GradeTech is qualified and experienced in C-8 - Concrete Contractor & C12 - Earthwork and Paving Construction there is no precedent or requirement for us to acquire the superseded specialty licenses while holding an A License. GradeTech strongly recommends the City staff become familiar with State Licensing classification requirements.

GradeTech is qualified and appropriately licensed to perform this contract and should be awarded the contract as low responsive bidder.

Sincerely,


Sam Rivinius, Pres
GradeTech Inc

P.O. Box 1728, San Ramon CA 94583 •Tel: (510) 733-0390 Fax:(510) 733-0389