



City Council Staff Report

Date: February 18, 2009 CONSENT CALENDAR

Subject: AWARD OF CONTRACT FOR THE 2008/2009 SB 821 PROJECTS, CITY PROJECTS NO. 08-12 & 08-13

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

The City received \$180,400 in SB 821 funds from the Riverside County Transportation Commission for construction of new sidewalks along Farrell Drive and Ramon Road. Award of this contract will allow staff to proceed with this sidewalk construction project.

RECOMMENDATION:

- 1) Determine the low bid submitted by Hondo Engineering, Inc., as non-responsive; and
- 2) Approve Agreement No. _____ in the amount of \$119,715.00 with S.J. Grigolla Construction Co., Inc., for Bid Schedules A and B, for the 2008/2009 SB 821 Projects, City Projects 08-12 & 08-13; and
- 3) Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

In April 2008, the Public Works and Engineering Department applied to Riverside County Transportation Commission (RCTC) for the 2008/2009 cycle of SB 821 funding for bicycle and pedestrian facilities. The Department proposed funding for two separate projects: construction of new sidewalk on the west side of Farrell Drive between Amado Road and Alejo Road; and construction of new sidewalk on the south side of Ramon Road between Indian Canyon Drive and Grenfall Road. The City requested \$180,400 in SB 821 funding for these projects.

RCTC received 42 applications for SB 821 funding, and after a competitive review, including presentations by staff, both of the projects proposed by the Department

ITEM NO. 2.L.

received the requested funding amounts. Only 15 of the 42 applications received funding from RCTC for the 2008/2009 cycle of SB 821 funding.

Staff has combined both projects under one bid advertisement to ensure reduction of overhead and reduced costs. City Project 08-12 includes construction of the new sidewalk along Farrell Drive, and will complete the last missing link sidewalk along Farrell Drive. City Project 08-13 includes construction of the new sidewalk along Ramon Road, and will complete missing link sidewalk segments and access ramps along Ramon Road.

The plans and specifications were prepared by Department staff, and on, December 3, 2008, the City Council approved the plans and specifications and authorized construction bidding. On January 1 and 8, 2009, the project was advertised for bids, and at 3:00 p.m. on February 3, 2009, the Procurement and Contracting Division received construction bids from the following contractors:

1. Hondo Engineering, Inc.; Lancaster, CA; \$116,711.00 **non-responsive**
2. S.J. Grigolla Construction Co., Inc.; La Verne, CA; \$119,715.00
3. Contreras Construction Co.; Indio, CA; \$120,206.50
4. D&L Wheeler Enterprises; Yucaipa, CA; \$121,607.00
5. JMJ Contractors, Inc.; Hesperia, CA; \$130,199.60
6. International Pavement Solutions, Inc.; Mentone, CA; \$137,070.00
7. B&T Works, Inc.; Wildomar, CA; \$138,440.00
8. Beta Construction, Inc.; Pomona, CA; \$148,440.00
9. Archuleta Concrete Construction Co.; Bermuda Dunes, CA; \$159,825.60
10. JDC Inc.; Rancho Cucamonga, CA; \$161,080.00
11. Tri Star Contracting II, Inc.; Desert Hot Springs, CA; \$176,700.00
12. Grigolla & Sons Construction Co., Inc.; Azusa, CA; \$181,100.00
13. Granite Construction Co.; Indio, CA; \$187,870.00
14. Ortiz Asphalt Paving Co.; Colton, CA; \$192,230.81
15. Elite Bobcat Service, Inc.; Corona, CA; \$196,000.00

The Engineer's estimate for this project was \$180,000.

In reviewing the apparent low bidder's Bid Documents, the Bidder's General Information sheet was incomplete and did not provide the City with sufficient information with which to judge the background and experience of Hondo Engineering, Inc. The Bid Documents clearly indicate that the Bidder's General Information sheet is to be completed, and states: *Failure to complete all items will cause the Bid to be non-responsive and may cause its rejection.* In evaluating this with the City Attorney's office, it was recommended that the Bid be considered non-responsive and award be made to the next lowest, responsive bidder. A letter to this effect was provided to the apparent low bidder, Hondo Engineering, Inc., on February 6, 2009 (see Attachment 1).

In light of the City Council's recent adoption of a new local business preference ordinance, staff would like to point out the existing local business preference specification that is used in all public works projects (except federally funded projects which restrict incorporation of local preference requirements). The "Local Business Promotion" guideline is listed as Item 19 in the Instructions to Bidders (see Attachment 2). The second low bidder, S.J. Grigolla Construction Co., Inc., did perform good faith efforts, and has secured a local trucking company from La Quinta to provide trucking services during construction of this project (see Attachment 3).

The lowest responsive bidder is S.J. Grigolla Construction Co., Inc. The company is a California corporation, and its officers are: Steve J. Grigolla, President; and Stella Grigolla, Vice-President/Secretary.

FISCAL IMPACT:

Sufficient funds are available in 261-4491-50267 (SB821 Sidewalk FY 08-09) and 134-4498-50267 (SB821 Sidewalk FY 08-09). No local funds are required for this project.



David J. Barakian
Director of Public Works/City Engineer



Thomas J. Wilson
Assistant City Manager



David H. Ready, City Manager

ATTACHMENTS:

1. Notification Letter to Hondo Engineering, Inc.
2. Local Business Promotion Specification
3. S.J. Grigolla Construction Co., Inc. List of Subcontractors
4. Agreement

ATTACHMENT 1
NOTIFICATION LETTER TO HONDO ENGINEERING, INC.



City of Palm Springs

Department of Public Works and Engineering

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262

Tel: (760) 323-8253 • Fax: (760) 322-8360 • Web: www.ci.palm-springs.ca.us

February 6, 2009

Via US Mail and E-Mail

Mr. Bret Carlson, President
Hondo Engineering, Inc.
42443 27th Street West
Lancaster, CA 93536

Re: 2008/2009 SB821 Project, City Project No. 08-12/08-13

Dear Mr. Carlson:

This letter is with reference to the Bid you submitted for the above mentioned project. Your Bid was considered the apparent low bid upon completing the Bid Tabulation. As you know, I discussed your Bid with you yesterday in a telephone call and advised you of the fact that your Bid only lists two references, each of which I was unable to verify due to invalid telephone numbers. The Bidder's General Information sheet to be submitted with the Bid requires at least three references to be listed. I requested that you provide additional references with which to verify the background and experience of your construction company. You submitted to me today additional information regarding your construction company, and included additional personal references, however, the information does not provide specific project information with which to judge the experience of Hondo Engineering, Inc.

Upon further review of your Bid, and after discussing the matter with the City Attorney's Office, it is our determination that your Bid will be considered non-responsive for your failure to submit a full and complete Bidder's General Information sheet. A recommendation will be made to the City Council to make such finding and to award to the second low bidder. This determination is based on the following facts:

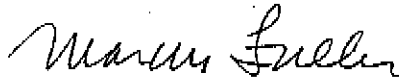
- 1) Paragraph N-3 "Award of Contract" of the Notice Inviting Bids states (In part): *The City reserves the right after opening bids to reject any or all bids...as it may best serve the interest of the City.*
- 2) The Bidder's General Information sheet included with the Bid Documents (Bid Form Page 11) indicates the following: *The Bidder shall furnish the following information. Failure to complete all items will cause the Bid to be non-responsive and may cause its rejection.*

Although the City Council has the authority to waive any informality in a Bid, based on the fact that 15 bids were received by the City for this project, it is incumbent upon us to ensure that a fair and impartial basis is used to determine the lowest, responsive Bid for this project. Allowing you to submit additional information after the Bid Opening date provides you with an unfair advantage over any of the other Bidders.

Mr. Bret Carlson
February 6, 2009
Page 2

Based on these factors, it is necessary for the City to consider your Bid non-responsive. It is our intent to schedule the City Council's consideration of this item for the February 18, 2009, Council meeting. If you have any questions, I can be reached at (760) 323-8253, extension 8744, or by e-mail at Marcus.Fuller@palmsprings-ca.gov. Any questions regarding the City's decision to consider your Bid non-responsive should be directed to James Donich at the City Attorney's office, (714) 415-1015.

Sincerely,



Marcus L. Fuller, P.E., P.L.S.
Assistant Director of Public Works/
Assistant City Engineer

cc: James Donich, City Attorney's Office
Craig Gladders
file

ATTACHMENT 2
LOCAL BUSINESS PROMOTION SPECIFICATION

award the Contract to the third lowest responsive, responsible Bidder. On the failure or refusal of such second or third lowest Bidder to execute the Agreement, each such bidder's Bid Securities shall be likewise forfeited to the City.

18. WORKER'S COMPENSATION REQUIREMENT - The Bidder should be aware that in accordance with laws of the State of California, the Bidder will, if awarded the Contract, be required to secure the payment of compensation to its employees and execute the Worker's Compensation Certification.

19. LOCAL BUSINESS PROMOTION -

(a) In determining the lowest responsive Bidder, the following provisions of Section 7.09.030 of the City of Palm Springs Municipal Code shall be applied to a Bid submitted by a local business enterprise or contractor:

For any contract for services, including construction services, a reciprocal preference shall be given as against a non-local business enterprise contractor from any state, county or city that gives or requires a preference to contractors from that entity in award of its service contracts. The amount of the reciprocal preference shall be equal to the amount of the preference applied by the entity in which the non-local business enterprise contractor is based as against the Bid of a City of Palm Springs contractor.

(b) For all contract Bids proposing sub-contractors:

(1) The prime contractor shall use good faith efforts to sub-contract the supply of materials and equipment to local business enterprises, and to sub-contract services to businesses whose work force resides within the Coachella Valley ("local sub-contractor").

(2) The prime contractor shall submit evidence of such good faith efforts at the time of submission of Bids. Good faith efforts may be evidenced by placing advertisements inviting proposals in local newspapers, sending requests for proposals to local sub-contractors, or by demonstrating that no local sub-contractors are qualified to perform the work or supply the materials or equipment.

(3) Any notice inviting Bids which may require the use of sub-contractors shall include notification of this subdivision.

(4) The City may reject as non-responsive the Bid of any contractor proposing to use sub-contractors that fails to comply with the requirements of this subdivision.

- END OF INSTRUCTIONS TO BIDDERS -

ATTACHMENT 3

S.J. GRIGOLLA CONSTRUCTION CO., INC. LIST OF SUBCONTRACTORS

INFORMATION REQUIRED OF BIDDER

LIST OF SUBCONTRACTORS

As required under Section 4100, et seq., of the Public Contract Code, the Bidder shall list below the name and business address of each subcontractor who will perform Work under this Bid in excess of one-half of one percent of the Contractor's Total Bid Price, or \$10,000.00, whichever is greater, and shall also list the portion of the Work which will be done by such subcontractor. After the opening of Bids, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of Work to be performed with the words "and/or" will not be permitted. Failure to comply with this requirement will render the Bid as non-responsive and may cause its rejection.

Work to be Performed	Contractor's License Number	Percent of Total Contract	Subcontractor's Name & Address
1. <u>TRUCKINGS</u>	<u>N/A</u>	<u>5%</u>	<u>NARD TRUCKING</u> <u>78636 Bottlebrush St</u> <u>LA BWINA, CA, 92253</u>
2. <u>Curb cuts - Breakings</u>	<u>5105701</u>	<u>10%</u>	<u>BARNETT</u> <u>14923 Telephone Ave</u> <u>Chino, Ca.</u>
3. <u>BACK HOE WORK</u>	<u>738451</u>	<u>5%</u>	<u>RICKS BACKHOE INC</u> <u>21467 Wren Dr</u> <u>Moreno, Ca. 92567</u>
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
8. _____	_____	_____	_____

ATTACHMENT 4
AGREEMENT

AGREEMENT

THIS AGREEMENT made this ____ day of _____, 200__, by and between the City of Palm Springs, a charter city, organized and existing in the County of Riverside, under and by virtue of the laws of the State of California, hereinafter designated as the City, and S. J. Grigolla Construction Co., Inc. hereinafter designated as the Contractor.

The City and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 -- THE WORK

The Contractor shall complete the Work as specified or indicated under the Bid Schedule(s) of the City's Contract Documents entitled:

2008/2009 SB 821 PROJECTS CITY PROJECT NO. 08-12 & 08-13

The Work is generally described as follows:

Construction of new Portland cement concrete sidewalk, driveway approaches and access ramps; removal of existing asphalt concrete driveway approaches and miscellaneous improvements; adjustment of water meter boxes and valves to grade; and all appurtenant work on the west side of Farrell Drive from Amado Road to Alejo Road; and on the south side of Ramon Road from Indian Canyon Drive to Grenfall Road.

ARTICLE 2 -- COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall commence on the date specified in the Notice to Proceed by the City, and the Work shall be fully completed within the time specified in the Notice to Proceed.

The City and the Contractor recognize that time is of the essence of this Agreement, and that the City will suffer financial loss if the Work is not completed within the time specified in Article 2, herein, plus any extensions thereof allowed in accordance with applicable provisions of the Standard Specifications, as modified herein. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City and the Contractor agree that as liquidated damages or delay (but not as a penalty), the Contractor shall pay the City the sum of **\$790** for each calendar day that expires after the time specified in Article 2, herein. In executing the Agreement, the Contractor acknowledges it has reviewed the provisions of the Standard Specifications, as modified herein, related to liquidated damages, and has made itself aware of the actual loss incurred by the City due to the inability to complete the Work within the time specified in the Notice to Proceed.

ARTICLE 3 -- CONTRACT PRICE \$119,715.00 Bid Schedules A & B

The City shall pay the Contractor for the completion of the Work, in accordance with the Contract Documents, in current funds the Contract Price(s) named in the Contractor's Bid and Bid Schedule(s).

ARTICLE 4 -- THE CONTRACT DOCUMENTS

The Contract Documents consist of the Notice Inviting Bids, Instructions to Bidders, the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations, the accepted Bid and Bid Schedule(s), List of Subcontractors, Non-collusion Affidavit, Bidder's General Information, Bid Security or Bid Bond, this Agreement, Worker's Compensation Certificate, Performance Bond, Payment Bond, Standard Specifications, Special Provisions, the Drawings, Addenda numbers 0 to 0, inclusive, and all Change Orders and Work Change Directives which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto.

ARTICLE 5 -- PAYMENT PROCEDURES

The Contractor shall submit Applications for Payment in accordance with the Standard Specifications as amended by the Special Provisions. Applications for Payment will be processed by the Engineer or the City as provided in the Contract Documents.

ARTICLE 6 -- NOTICES

Whenever any provision of the Contract Documents requires the giving of a written Notice, it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the Notice.

ARTICLE 7 -- MISCELLANEOUS

Terms used in this Agreement which are defined in the Standard Specifications and the Special Provisions will have the meanings indicated in said Standard Specifications and the Special Provisions. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

The City and the Contractor each binds itself, its partners, successors, assigns, and legal representatives, to the other party hereto, its partners, successors, assigns, and legal representatives, in respect of all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, the City and the Contractor have caused this Agreement to be executed the day and year first above written.

ATTEST:
CITY OF PALM SPRINGS,
CALIFORNIA

APPROVED BY THE CITY COUNCIL:

By _____
City Clerk

Date _____

Agreement No. _____

APPROVED AS TO FORM:

By _____
City Attorney

Date _____

CONTENTS APPROVED:

By _____
City Engineer

Date _____

By _____
City Manager

Date _____

Corporations require two notarized signatures: One signature must be from Chairman of Board, President, or any Vice President. The second signature must be from the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

CONTRACTOR: Name: S. J. Grigolla Construction Co., Inc. Check one: Individual Partnership Corporation
Address: 2639 Sierra Way
La Verne, CA 91750

By: _____
Signature (notarized)

By: _____
Signature (notarized)

Name: _____

Name: _____

Title: _____

Title: _____

(This Agreement must be signed in the above space by one of the following: Chairman of the Board, President or any Vice President)

This Agreement must be signed in the above space by one of the following: Secretary, Chief Financial Officer or any Assistant Treasurer)

State of _____
County of _____ ss

State of _____
County of _____ ss

On _____
before me, _____
personally appeared _____

On _____
before me, _____
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

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Notary Signature:

Notary Signature:

Notary Seal:

Notary Seal: