City of Carson City Agenda Report

Date Submitted: October 5, 2011

Agenda Date Requested: October 20, 2011
Time Requested: Five Minutes
Labor Commissioner PWP # CC-2011-380

To: Mayor and Supervisors From: Purchasing and Contracts

Subject Title: For Possible Action: To determine that Herback General Engineering's Bid Submittal is not responsive and therefore Staff recommends the rejection of their bid and bid protest. (*Kim Belt*)

Staff Summary: Carson City received sealed bids for all labor, materials, tools and equipment necessary for the Carson River Park Phase 2A – 5013 Carson River Road. Staff recommends award to Horizon Construction, Inc., as the lowest responsive and responsible bidder pursuant to N.R.S. Chapter 338. Apparent Low Bidder, Herback General Engineerings' Bid was found not responsive due to errors in the Bid Submittal.

Type of Action Requested: (check one)
() Resolution () Ordinance (_X) Formal Action/Motion () Other (Specify)
Does This Action Require A Business Impact Statement: () Yes (_X) No
Recommended Board Action: I move to determine that Herback General Engineering's Bid Submittal is not responsive and therefore Staff recommends the rejection of their bid and bid protest. (<i>Kim Belt</i>)
Explanation for Recommended Board Action: A Notice of Protest received from October 7, 2011, stating they (Herback General Engineering) complied with the law to the best of their ability, and the City failed to provide forms to fill out. In Senate Bill 268 Section 13.3 it clearly states that "A prime contractor shall include his or her name on a list required by paragraph (a) or (b) of subsection 1 if, as the prime contractor, the prime contractor will perform any of the work required to be listed pursuant to paragraph (a) or b) of subsection 1. Section 13.4 (a) Except as otherwise provided in this subsection, if a contractor; (a) Fails to submit the list within the required time the contractor's bid shall be deemed not responsive." Herback failed to list themselves as a prime contractor, and include a description of the labor or portion of the work, and therefore did not properly fill out the bid documents.
Applicable Statute, Code, Policy, Rule or Regulation: N.R.S. Chapter 338 Public Works
Explanation of Impact: N/A
Funding Source: N/A
Alternatives: Provide other direction pursuant to Board Action.
Supporting Material: Notice of Protest Letter.
Prepared By: Kim Belt, Purchasing and Contracts Manager
Reviewed By: (Public Works) (City Manager) Date: 10-11-11 Date: 10/11-11

(District Attorney) (Finance Director)	liti	Date: 10/11/11 Date: 10/11/11
Board Action Taken: Motion:	1)	Aye/Nay
(Vote Recorded By)		

HERBACK

GENERAL ENGINEERING, LLC

NV Lie. # 33090A CA Lie. # 486035 2531 Nowlin Road Minden, NV 89423 Telephone 775 267-6800 Fax 775 267-6801

HGE@Herbeck.net

Facsimile Transmittal

Date: 10/7/11@10:30 AM
Company: Carson City Rurchasing & Contracts
Att: Purchasing & Contracts
Fax: 775-887-2107
From: Dan Morse
Re: Protest of award
Carson City Park Phase 24
Pages: (Including cover sheet)

The information contained in this fax transmittal is confidential and intended for the use of the designated recipient named above. If you are not the recipient, you are hereby notified that any coping or distribution of this communication is strictly prohibited without written consent from Herback General Engineering, LLC.
If you have received this communication in error, please notify us by telephone.

HERBACK GENERAL ENGINEERING

NV Lic# 33090A CA Lic# 486035 2531 Noulin Road Minden, NV 89423 Telephone 775-267-6800 Fax: 775-267-6801

October 7, 2011

Carson City 201 North Carson Street, Suite 3 Carson City, Nevada 89701

RE:

Public Works Project No 1.0715

Formal Protest -

To Whom It May Concern;

Please be informed that we have received telephone notice that our bid for the above referenced project, of which we are the apparent low bid, has been rejected and we here within protest the award of this project to any other bidder. Within this protest we further claim that our bid is genuine, correct and meets all the requirements within the bid documents provided by Carson City.

Our firm has requested a formal written response from the city, however no formal response has been received at this time. Based on the limited information received, it is our firm belief that our company complied with the law to the best of our ability with the documents provided and that if there were any irregularities within the bid documents they are due to the city's negligence in providing correct documents to accurately convey the information needed and to comply with Senate Bill 268.

It is our understanding that due to Senate Bill 268 we are required to list the portion of work being performed as "Prime Contractor". It is our claim that the forms provided did not accurately allow us to describe portion of work as "Prime Contractor". The City failed to properly provide forms to list the "Prime Contractors" portion of work performed. Senate Bill 268 has no reference to re-define the meaning of Subcontractor. Any "Prime Contractor" listing themselves as "Subcontractor" is misrepresenting and falsely identifying their portion of work within the definitions defined by the State of Nevada as Prime Contractor and Subcontractor.

We request that city re-evaluate the proposals and identify the wording on the forms provided and who is falsely representing themselves as "Subcontractor". Upon review we believe our bid proposal was genuine and correct given the documents provided. We further suggest that future documents be corrected to accurately represent the difference between "Prime Contractors" and "Subcontractors".

Should you need any additional information or wish to discuss this issue in greater detail please contact me at your earliest convenience.

Sincerely,

HERBACK GENERAL ENGINEERING, LLC

Dan Morse | Estimator/Project Manager

775-691-6249

cc: File, Greg Herback