

FINANCE DEPARTMENT

DATE: December 5, 2016

TO: BRUCE A. RUDD, City Manager
RENENA SMITH, Assistant City Manager

THROUGH: MICHAEL LIMA, Finance Director
Finance Department

FROM: TODD KNITTEL, Purchasing Manager
Purchasing

SUBJECT: STAFF DETERMINATION TO BYPASS THE LOW BIDDER AS
NON-RESPONSIVE TO THE SPECIFICATIONS FOR COURTHOUSE PARK
TRANSIT CENTER IMPROVEMENTS
(BID FILE NO. 3500)

In accordance with Resolution 2003-129, I am hereby notifying you that the apparent low bidder Avison Construction has tentatively been determined to be a non-responsive bidder for the following reason:

ATTACHMENT E - BUY AMERICA CERTIFICATION on Page 1.16 was signed in both the Certificate of Compliance with 49 U.S.C 5323(j)(1) and Certificate of Non-Compliance with 49 U.S.C. 5353(j)(1).

A bid must conform to the material terms of the bid specifications. Responsiveness must be determined from the face of the bid. Here, the Certificate of Compliance and Certificate of Non-Compliance for the Buy America requirements are material parts of the bid, as evidenced by Federal Transit Authority (FTA) regulations. FTA regulations (49 CFR 661) allow a bidder to explain inadvertent or clerical errors regarding signing the certificates to the FTA's Chief Counsel for a determination, but specifically exclude situations such as this when a bidder signs both Buy America certificates. The bidder failed to conform to the material terms of the bid specifications by signing both certificates, and the FTA does not provide a remedy for such and error.


In accordance with Resolution 2003-129, the bidder will be given the opportunity to appeal the determination.

Staff has determined that the bid from Avison Construction Inc. should be rejected. Staff recommends award to the next lowest responsive and responsible bidder Davis Moreno.

Approve Bypass Recommendation
Of the Purchasing Manager

Disapprove

CITY MANAGER



City Manager or Designee



Date