

Regular Council Meeting

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December 14, 2023

2023 DEC 12 A 11: 06

FRESNO CITY COUNCIL

CITY OF FRESNO
CITY CLERK'S OFFICE



Supplement Packet

ITEM(S)

1-X (ID 23-1724)

Actions pertaining to the Midtown Fresno Trail: McKinley Avenue Gap Closure Project, Millbrook Avenue to Clovis Avenue (Council Districts 4 & 7):

1. Award a construction contract in the amount of \$6,633,609 to Avison Construction, Inc. of Madera, CA, as the lowest responsive and responsible bidder, for the Midtown Fresno Trail: McKinley Avenue Gap Closure Project, Millbrook Avenue to Clovis Avenue (Bid File No. 12400950).
2. Approve a Joint Project Agreement with the Fresno Irrigation District to provide for cost sharing on erosion repairs, for an estimated City contribution in the amount of \$181,350, plus a 10% contingency.

Contents of Supplement: Joint Project Agreement

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

JOINT PROJECT AGREEMENT

This Joint Project Agreement is made and entered into this ____ day of December, 2023, by and between the CITY OF FRESNO, a municipal corporation and public entity, (the City) and the FRESNO IRRIGATION DISTRICT, an irrigation district formed and operating pursuant to Division Eleven (11) of the California Water Code, and a public entity, (the District), to define the responsibilities and obligations of the aforementioned Parties for the erosion repairs along the North bank of the Mill Canal.

RECITALS:

WHEREAS, the City has a funded capital improvement project to construct a Class I multipurpose trail from North Millbrook Avenue to North Clovis Avenue adjacent to the Mill Canal alignment (hereinafter the Trail Project); and

WHEREAS, the City and the District have identified additional erosion areas along the canal necessitating repairs not originally specified in the executed Common Use Agreement (CUA); and

WHEREAS, the City and the District recognize the benefits of a joint project to repair these erosions prior to the City's proposed Class I trail construction; and

WHEREAS, the contemplated improvements generally consist of bank repair improvements to restore eroded canal banks along the north bank of the Mill Canal No. 36. As agreed to by the City and District, nine (9) locations were identified as needing repair, including seven (7) for which the City will be financially responsible for repair and two (2) for which the District will be financially responsible for repair, along the Trail Project side bank. A contractor will be used to stabilize and/or backfill, compact and slope vertical embankments, furnish and install geotextile fabric and Class III riprap as identified in the CUA and shown in Exhibit A, within the Project Limits (**hereinafter the "Project"**); and

WHEREAS, City and District, while maintaining their respective easements and facilities, recognize it will be to their mutual benefit to complete the Project as a cooperative endeavor; and

WHEREAS, the Project will be fully funded through local funding sources; and

WHEREAS, the City will contribute the financials necessary to fund the repair of the seven (7) identified erosion locations shown in Exhibit A; and

WHEREAS, the District will contribute the financials necessary to fund the repair of the two (2) eroded areas identified in the CUA and shown in Exhibit A and identified as Item 002 and 006 in Exhibit B; and

WHEREAS, the repairs must be completed before District's 2024 Irrigation season begins; and

WHEREAS, the parties intend, by entering into this Agreement, to establish the terms and conditions of their cooperative approach regarding completion of this Project.

NOW, THEREFORE, in consideration of the mutual acknowledgments, covenants, and conditions herein contained, it is hereby agreed as follows:

1. The Project shall be performed and administered by the District or its agents thereof and shall be constructed separate from the Trail Project.

2. The Project shall be completed before District's 2024 Irrigation season begins.

3. Upon completion of the Project, each Party's jurisdictional and maintenance responsibilities shall remain unchanged from those which existed prior to completion of the Project.

4. District shall be responsible for hiring the contractor, overseeing the contract, and executing the required repairs per the District's Standard Specifications, and providing all essential field engineering, inspection, and testing for performance of the construction work.

5. City shall be responsible for the actual costs associated with the seven (7) erosion repairs as identified in the Preliminary Engineer's Estimates Items 001, 003, 004, 005, 007, 008, and 009 attached as Exhibit B hereto. The estimated cost for the City is \$181,350 plus 10% contingency.

6. District shall be responsible for the actual costs associated with the two erosion repairs as identified in the Preliminary Engineer's Estimate item 002 and 006 attached as

Exhibit B hereto. The estimated cost for the District is \$66,350 plus 10% contingency.

7. City's share of cost as shown in the preliminary estimate of probable costs (Exhibit B) shall not be increased by more than ten percent (10%), unless otherwise approved in writing by the City's Director of Public Works, or designee.

8. Final project costs and City's share thereof will not be determined until repairs are completed and the Project is accepted by the District's Engineer in compliance to District Standard Specifications and closed out in accordance with District's policies.

9. Upon the District's formal approval of the aforementioned erosion repair work completion as defined in this Agreement and Exhibit B, and no later than thirty (30) days after the City receives an invoice from the District, which requests payment for the City's costs, as per the actual costs and the terms outlined in this Agreement, the City will promptly pay the full balance owed to the District.

10. City agrees to indemnify, save, hold harmless, and at District's request, defend District, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, by City, its officers, agents and employees, under this Agreement; provided, that nothing herein shall constitute a waiver by City of governmental immunity that may be available as a defense to any such third-party claim(s) under or pursuant to Government Code Section 810 et seq. This section shall survive expiration or termination of this Agreement. If City should subcontract all or any portion of the work to be performed under this Agreement, City shall require each subcontractor to indemnify, hold harmless and defend District and each of its officers, agents and employees in accordance with the terms of the preceding paragraph.

11. District agrees to indemnify, save, hold harmless, and at City's request, defend City, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, by District, its officers, agents

and employees, under this Agreement; provided, that nothing herein shall constitute a waiver by District of governmental immunity that may be available as a defense to any such third-party claim(s) under or pursuant to Government Code Section 810 et seq. This section shall survive expiration or termination of this Agreement. If District should subcontract all or any portion of the work to be performed under this Agreement, District shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, agents and employees in accordance with the terms of the preceding paragraph.

In the event of concurrent negligence on the part of CITY or any of its officers, officials, employees, agents or volunteers, and District or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

12. Without limiting the applicability or scope of the indemnification provisions contained in Sections 10 and 11, District and City shall maintain, at their sole expense, insurance policies or self-insurance programs including, but not limited to, an insurance pooling arrangement and/or Joint Powers Agreement sufficient to fund their respective liabilities hereunder throughout the term of this Agreement. Coverage shall be provided for comprehensive general liability, automobile liability, professional liability, and workers' compensation.

13. Neither Party shall assign, transfer, or sub-contract this Agreement, nor any of its respective rights or duties hereunder without the written consent of the other Party.

14. This Agreement shall become effective immediately upon execution and shall expire after reimbursement from the City is received by the District for the contractor's invoice(s) to the District for said erosion repairs; This Agreement may be executed in one or more counterparts, each of which when executed will be deemed to constitute one and the same instrument and agreement.

15. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision of this Agreement shall not affect the other provisions.

16. This Agreement may be modified only by written instrument executed by duly authorized representatives of both City and District.

17. Each Party acknowledges that it has read and fully understands the contents of this Agreement and represents that this constitutes the entire Agreement between City and District with respect to the subject matter contained herein and that this Agreement supersedes all prior negotiations, representations, or agreements, either written or oral.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
day and year first herein above written.

CITY OF FRESNO,
A California municipal corporation

FRESNO IRRIGATION DISTRICT

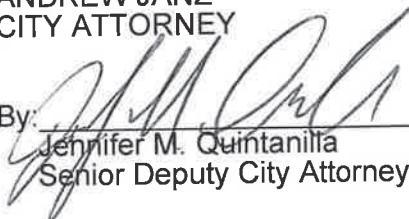
By: _____
Scott Mozier, Director
Department of Public Works

By: _____

Name: Ryan Jacobsen

Title: President

APPROVED AS TO LEGAL FORM:
ANDREW JANZ
CITY ATTORNEY

By:  _____ 12/12/23
Jennifer M. Quintanilla
Senior Deputy City Attorney

By: _____

Name: Bill Stretch

Title: Secretary

ATTEST:
TODD STERMER, CMC
CITY CLERK

APPROVED AS TO LEGAL FORM:
FRESNO IRRIGATION DISTRICT

By: _____
Deputy

Date

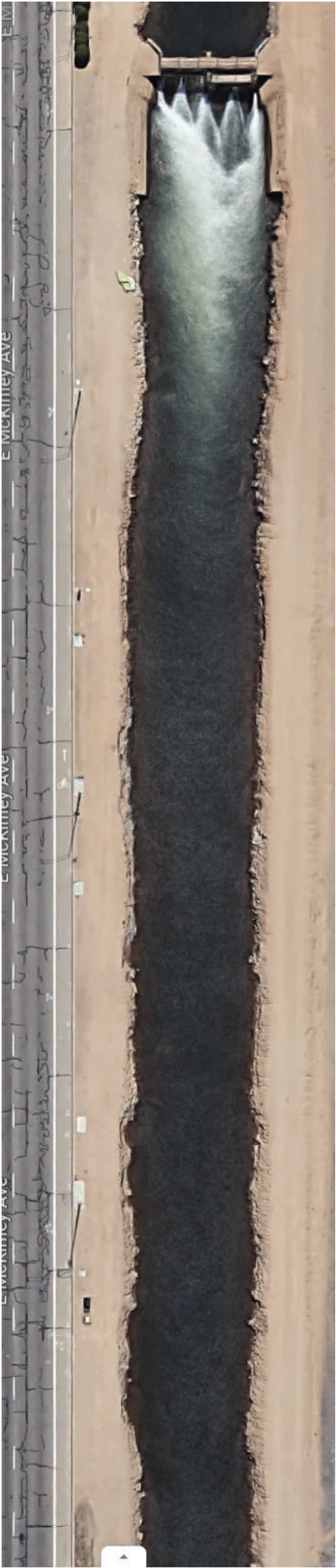
By: _____
Jeffrey G. Boswell, Esq.
Attorney for Fresno Irrigation District

Attachments –
Exhibit A – Map of Repair Locations
Exhibit B – Preliminary Engineer's Estimate

EXHIBIT A







MJ AVILA COMPANY INC
7258 W RIALTO AVE
FRESNO CA 93723



O: (559) 846-7601 F: (559) 846-7610

OWNER: FID
RFP: Herndon Canal Repair
ATTN: Israel
Phone: 559 852 8790
Email: esanchez@fresnoirrigation.com

Price Proposal 8/21/2023
Revised 10/20/2023

Job Site: Fresno

/s/ Mary Jo Avila
MARY JO AVILA
Authorized representative

Scope: Repair Canal Bank With Class 3 Rip Rap 75 LB Rock

247,699.32
-66,349.93
\$181,349.39

Budgetary Numbers

CLIN Item	Description	Labor	Materials	Subs	Other	Equipment	Complete Price	
							Extension	
001	Carmen & Sierra Vista Bridge Pg 1	\$ 5,606.51	\$ 2,245.10	\$ 2,466.86	\$ 747.53	\$ 7,300.92	\$ 18,366.92	(North side- Left & Right c
002	Chestnut Bridge Pg 1 (2nd Picture)	\$ 5,606.51	\$ 4,054.13	\$ 3,083.58	\$ 747.53	\$ 6,802.56	\$ 20,294.32	East Side (Circle)
003	Mckinley Old Bridge Pg 1 of 2	\$ 6,815.02	\$ 17,823.72	\$ -	\$ 747.53	\$ 18,289.68	\$ 43,675.95	20x12x13
004	Mckinley Old Bridge Pg 2 of 2	\$ 5,419.63	\$ 4,054.13	\$ 2,466.86	\$ 747.53	\$ 6,952.07	\$ 19,640.23	24x2x13
005	Mckinley Piccadilly PG 1 of 2	\$ 8,222.88	\$ 18,546.33	\$ 9,045.17	\$ 747.53	\$ 9,568.44	\$ 46,130.36	50x5x13
006	Mckinley Piccadilly PG 2 of 2	\$ 8,222.88	\$ 18,546.33	\$ 9,045.17	\$ 747.53	\$ 9,493.69	\$ 46,055.61	50x5x13
007	Mckinley FANG PG 3	\$ 5,606.51	\$ 2,389.62	\$ 2,466.86	\$ -	\$ 7,699.61	\$ 18,162.60	25x1x13
008	Carmen Ave. - Page 1	\$ 5,606.51	\$ 1,365.50	\$ 2,466.86	\$ 747.53	\$ 7,500.26	\$ 17,686.67	10x1x13
009	Mckinley Ave. - Page 2	\$ 5,606.51	\$ 1,365.50	\$ 2,466.86	\$ 747.53	\$ 7,500.26	\$ 17,686.67	10x1x13
010	Item 010	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
011	Item 011	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
012	Item 012	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
013	Item 013	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
014	Item 014	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
015	Item 015	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
							\$ -	
							\$ 247,699.32	

COMMENTS AND EXCLUSIONS BELOW

Unless other wise noted above; NO Permits, Fees of Any Kind, Bonds
Unless other wise noted above; NO Changing Elevations of Drainage
Unless other wise noted above; NO Hazardous Material Handling
Unless other wise noted above; NO ENGINEERING (layout staking by a licensed surveyor)
Unless other wise noted above; NO Testing of Any Kind
Unless other wise noted above; Normal Working Hours
Unless other wise noted above; NO Erosion control
Unless other wise noted above; NO Temporary Toilets
Unless other wise noted above; NO Overtime or Double labor cost included
Unless other wise noted above; NO Utility work, relocation and capping
Unless other wise noted above; NO Design (a document drawing must be furnish prior to start of work)
Unless other wise noted above; NO Construction water
Unless other wise noted above; NO Over-excavation of soft soil areas and import fill
Unless other wise noted above; NO Inspection or Related Fees
Unless other wise noted above; NO Dewatering
Unless other wise noted above; NO Engineering
Unless other wise noted above; NO Work of specification section not specifically noted
Unless other wise noted above; NO Finish sub-grade compaction
Unless other wise noted above ; NO Waiver Of Subrogation Insurance
Unless other wise noted above ; NO Builders Risk or Railroad Insurance
Unless other wise noted above ; NO Liquidated Damages
Unless other wise noted above ; NO Participation In On OCIP