

Agenda Item: ID#18-0364 (3-G)

Date: 3/22/18

REC'D MAR 19 '18 AM 11:42
FRESNO CITY CLERK

FRESNO CITY COUNCIL



Supplemental Information Packet

Agenda Related Item(s) – ID#18-0364 (3-G)

Contents of Supplement: Letter from Mountain Cascade, Inc. **Item(s)**

Actions related to the City of Fresno's Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project:

1. Reject all Design-Build proposals received for the City of Fresno's Northeast Surface Water Treatment Facility Six-Million Gallon Finished Water Reservoir Project - Bid File No. 3531 (Council District 6)
2. Rescind staff's finding that Mountain Cascade Inc., is non-responsible

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.



REC'D MAR 19 '18 AM 11:44
FRESNO CITY CLERK

555 Exchange Ct. P.O. Box 5050, Livermore, CA 94551-5050

March 19, 2018

City of Fresno
Attn: City Council
2600 Fresno St.
Room 2097
Fresno, Ca. 93721

Re: March 22, 2018, Agenda Item: NESWTF Storage Tank Project, bid file no. 3531

Honorable Council,

This letter shall serve as a precursor to my appearance at the upcoming March 22nd Council meeting when the referenced agenda item is scheduled for a vote.

It is apparent by the Council Meeting Agenda for March 22, 2018, and representations by staff that the City intends to move forward with rejecting the bids on the referenced project for which Mountain Cascade, Inc. ("MCI") remains the lowest responsive and responsible bidder, and recently agreed to a fourth price extension. Furthermore, the City intends to rebid this project as a traditional design-bid-build format as opposed to the original design-build format, and will undoubtedly be utilizing MCI's proprietary cost savings ideas that were gleaned from the original process. It was during that process when the City, against its own rules, availed said ideas to W.M. Lyles a clearly wrongful act of favoritism. This new recommendation is contrary to the originally intended course of action which was to award the project to Lyles. This course was reversed only due to MCI's exposure of behind the scenes dealings that repeatedly enticed the high bidder Lyles to lower its bid using MCI engineering, and then resubmit its modified bid for acceptance based upon a wrongful and unscrupulous granting of relief after the bid process close. That process stripped MCI of its rights and protections provided under the public bid statutes. The newest recommendations, while convenient, fall short of the necessary and available action that will rectify the otherwise consequential financial harm to MCI. Mountain Cascade is one company, well accustomed to the challenge of fairly competing against other contractors on what is by rule supposed to be a public agency's obligation to provide and assure a level playing field, which we accept and even embrace. What we cannot accept, and in this specific case will not tolerate is having to navigate a playing field that has been so obviously tilted against us.

Mountain Cascade remains resolute in only accepting an outcome that awards the job to the lowest responsive and responsible bidder, MCI. Rejecting all bids is not a remedy for curing the obviation of public bidding statutes which is victimizing MCI. We fulfilled the terms of the R.F.P. without exception and our bid is still \$432,000 low. We recently and successfully completed an identical project for the City (see attached photo which coincidentally is of a nearly identical project we recently completed). Please remember that "Design-Build" is merely an alternative delivery method – the work is the same and requires MCI *as well as all bidder(s)* to retain experienced qualified design engineering firms for completing the design portion! The City, at the rate payer expense, will expend unnecessary money to put the job back out to bid under a "design-bid-build" format. Neither the Mayor, City Council, City Manager, nor Public Works Director made the decisions that led to this injustice but they do run the City, and thereby possess the power to override staff's recommendations to right this wrong while providing a savings to the citizens they represent. Up until now, damages to MCI are limited and correctable by awarding this project to MCI. Short of an award to MCI, we see no path forward that excludes a judicial remedy; the complications of which could lead to any number of outcomes or consequences, but we are committed to understand why this injustice occurred and rectify the cause. Regardless of the outcome this week, the City needs to make good on staff's commitment to expunge the wrongful non-responsibility determination from public record now.

Please know that MCI and its team stands at the ready to serve the City of Fresno and honor the terms of its lowest and most responsive and responsible bid.

Very truly yours,

A handwritten signature in blue ink, appearing to read "D. Hicks", written over a horizontal line.

David T. Hicks
Vice President of Estimating
Corporate Secretary
Mountain Cascade, Inc.

MOUNTAIN CASCADE, INC.

DESIGN-BUILD PROPOSAL

CITY OF FRESNO

NESWTF STORAGE TANK PROJECT

BID FILE NUMBER: 3531

MAY 16, 2017



Completed T-4 3 MGD Tank by Mountain Cascade, Inc. for the City of Fresno

