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**Title:** Award a construction contract in the amount of \$4,693,392.60 to American Paving Company, of Fresno, California for the Veterans Boulevard Project - Bullard Extension Package from Bullard Avenue to the Riverside Drive and Veterans Boulevard Intersection - Bid File No. 3582 (Council District 2)

**Sponsors:** Public Works Department

**Indexes:**

**Code sections:**

**Attachments:** 1. 18-0990 Bid Evaluation.pdf, 2. 18-0990 Fiscal Impact Statement.pdf, 3. 18-0990 Vicinity Map.pdf, 4. 18-0990 Standardized Contract.pdf

Date	Ver.	Action By	Action	Result
8/30/2018	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**August 30, 2018**

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Public Works Department

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Public Works Department, Engineering Division

## SUBJECT

Award a construction contract in the amount of \$4,693,392.60 to American Paving Company, of Fresno, California for the Veterans Boulevard Project - Bullard Extension Package from Bullard Avenue to the Riverside Drive and Veterans Boulevard Intersection - Bid File No. 3582 (Council District 2)

## RECOMMENDATION

Staff recommends that the City Council award a construction contract with American Paving Company of Fresno, California in the amount of \$4,693,392.60 for the Veterans Boulevard Project - Bullard Extension Package as the lowest responsive and responsible bidder and authorize the Public Works Director or designee to sign the construction contract on behalf of the City of Fresno.

## EXECUTIVE SUMMARY

The City of Fresno seeks to construct Bullard Avenue from the existing easterly limit to the Riverside Drive/Veterans Boulevard intersection along with the entire storm drainage system for the overall Veterans Boulevard Grade Separation Package. The associated work includes the construction of concrete curb, gutter and sidewalks, the installation of asphalt street paving, storm drain piping, inlets and manholes, the installation of sewer and water, and the construction of traffic signal improvements. This construction contract is the first package of the overall Veterans Boulevard Project. This construction contract is being funded by the California High Speed Rail Authority (CHSRA) in connection with the future Veterans Boulevard grade separation over UPRR and future High Speed Rail (HSR), and the eventual closure of the Carnegie Avenue at-grade crossing.

The low bidder, Emmett's Excavation, Inc. submitted a bid of \$4,487,039.00; however, it was deemed to be "non-responsive" due to the Contractor failing to meet the Disadvantage Business Enterprise and Small Business Enterprise requirement for the project. Therefore, staff recommends the award of the construction contract to American Paving Company, in the amount of \$4,693,392.60, as the lowest responsive and responsible bidder.

On June 14, 2018 staff posted the Evaluation of Bid Proposals with the determination to award the construction contract to American Paving Company. In response, staff received two formal appeals in protest of staff's determination. Subsequent appeal hearings were scheduled and conducted by an Independent Administrative Hearing Officer on July 18, 2018. The hearing officer's concluding recommendations were to uphold staff's determination finding American Paving Company as the lowest responsive and responsible bidder.

## BACKGROUND

Veterans Boulevard, originally referred to as the Herndon-Grantland Diagonal, was originally part of the 1984 General Plan and is now a planned six-lane super arterial in the 2035 General Plan. The interchange concept was refined in 1986 with a feasibility study conducted to analyze potential interchange/grade separation configurations. In 1991, a Project Initiation Document was completed, and in 1996, the Official Plan Line for Veterans Boulevard was adopted by the Council. In recent years, staff has completed the Project Study Report (PSR), Project Report and Environmental Impact Report (EIR). Veterans Boulevard and the proposed interchange with State Route 99 are identified as part of the Circulation Element in both the City and County General Plans. The new interchange will be a partial cloverleaf connecting State Route 99 and Veterans Boulevard. The new roadway will have six travel lanes, a Class I bicycle lane/pedestrian trail on one side and Class II bicycle lanes on both sides. The project will include two bridge structures, one to cross over Route 99 and one to cross over the existing Union Pacific Railroad tracks, Golden State Boulevard, and the future high speed rail tracks.

On December 11, 2011, the Council approved an amendment to the Cooperative Agreement with the Fresno County Transportation Authority (FCTA) for the Veterans Boulevard/State Route 99 Interchange and Grade Separation, Urban Project N-1. The amendment provided authorization from FCTA for \$8.8 million for the PS&E or final design phase of the project. In June 2013, Caltrans certified and approved the final Environmental Impact Report (EIR). The Project Report for the Veterans Boulevard project from Shaw Avenue to Herndon Avenue, including a new freeway interchange at State Route 99 and an overpass at the Union Pacific Railroad, was also signed and approved by Caltrans in July 2013. The FCTA and Fresno Council of Governments (COG) have also

approved a total of \$15.8 million in right-of-way acquisition funds for the project.

The EIR for the California HSR Project's Merced to Fresno segment included the selection of an at-grade alignment just west of the Union Pacific Railroad tracks through much of northwest Fresno including the area near Shaw Avenue, Carnegie Avenue and the Veterans Boulevard alignment. At locations such as Shaw Avenue, the HSR project proposes to construct a grade separation to carry Shaw Avenue over the UPRR and HSR tracks. This is also the case at other locations along the HSR corridor such as Herndon Avenue (underpass) to the north and further south at McKinley Avenue (overpass), Olive Avenue (overpass), Tulare Street (underpass), Ventura Avenue (underpass) and Church Avenue (overpass). Carnegie Avenue is a short street segment between Golden State Boulevard and Bullard Avenue which was deemed to be infeasible for a grade separation at that location, due to the close proximity of Golden State and Bullard Avenues. The high volume of traffic utilizing Carnegie Avenue made it also infeasible to close the crossing and re-route as far as Herndon and Shaw Avenues. The City Administration, City staff and CHSRA representatives developed a solution which is set forth in the EIR for the Merced to Fresno segment, of mitigating the Carnegie Avenue at-grade railroad crossing closure through constructing Veterans Boulevard between Golden State Boulevard and Bullard Avenue, including the Bullard Avenue extension from Carnegie to Bullard Avenues.

City staff and CHSRA representatives have agreed it makes much more sense for the City to construct the Veterans Boulevard grade separation and Bullard Avenue extension given that it is part of the larger City project and will ensure compatibility with subsequent phases of Veterans Boulevard. The City Council approved the cooperative funding agreement for the Veterans Boulevard Project with CHSRA on September 12, 2013. The agreement allows for the City to construct the facility with the CHSRA to pay 100% of all construction costs including City bidding costs, construction management, inspection and testing.

The scope of work for this contract includes, but is not limited to: The construction of Bullard Avenue from the existing easterly limit to the Riverside Drive/Veterans Boulevard intersection along with the entire storm drainage system for the overall Veterans Boulevard Grade Separation Package. The associated work includes the construction of concrete curb, gutter and sidewalks, the installation of asphalt street paving, storm drain piping, inlets and manholes, the installation of sewer and water, and the construction of traffic signal improvements.

The Notice Inviting Bids was published in the Business Journal on March 14, 2018, posted on the City's website and was sent via fax to eleven (11) building exchanges. The plans and specifications were distributed to thirteen (13) prospective bidders. Seven (7) sealed bid proposals were received and opened in a public bid opening on May 8, 2018, with the bids ranging from \$4,487,039.00 to \$5,307,884.86. Emmett's Excavation, Inc. submitted the low bid of \$4,487,039.00 however, it was deemed to be "non-responsive" due to the Contractor failing to meet the Disadvantage Business Enterprise and Small Business Enterprise requirement for the project. As a result, American Paving Company's bid of \$4,693,392.60 was determined to be the lowest responsive and responsible bid on the project.

Following the posted Evaluation of Bid Proposals, staff received two protest letters in response to staff's determination. The apparent low bidder, who was deemed "non-responsive", Emmett's Excavation, Inc. protested the City's determination that Emmett's bid was "non-responsive" for failure to meet the Disadvantage Business Enterprise and Small Business Enterprise goal of 30%. The second lowest responsive bidder, Granite Construction Company, protested the City's

determination that American Paving Company was the lowest responsive and responsible bidder and contended that American Paving Company incorrectly calculated their Disadvantage Business Enterprise, Small Business Enterprise and Disabled Veteran Business Enterprise participation commitments. Following the receipt of the appeal requests, the City assigned an Independent Administrative Hearing Officer, Michael D. Flores, and scheduled two appeal hearings on July 18, 2018. Following the two appeal hearings, the Hearing Officer provided a detailed summary of his findings and recommendations to the City Manager. In summary, the Hearing Officers recommendations were to uphold staff's determination that American Paving Company was the lowest responsive and responsible bidder. In addition, the Hearing Officer recommended reversal of staff's determination that the second low bidder's, Granite Construction Company, bid proposal was responsive.

The bidders have agreed to extend the bids from the original 64 days from the bid opening, and they will now expire on August 31, 2018.

Staff is recommending award of a construction contract to American Paving Company in the amount of \$4,693,392.60, to construct the Bullard Extension Package of the Veterans Boulevard Project and to authorize the Public Works Director or designee to sign and execute the standardized contract on behalf of the City of Fresno.

## **ENVIRONMENTAL FINDINGS**

An initial study and EIR (SCH No. 2010021054) was prepared for the Veterans Boulevard project and certified on June 7, 2013. This approval is to implement a portion of that project. An analysis has been performed pursuant to CEQA Guidelines Section 15162 to determine whether subsequent environmental review is required for this project. Based upon this analysis the following findings are made to support the determination that no subsequent environmental review is required:

1. No substantial changes are proposed in the project which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects because the project is being implemented as planned.
2. No substantial changes occurred with respect to the circumstances under which the project was undertaken which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The project will not have any significant effects not discussed in the EIR, and there are no mitigation measures or alternatives previously found not to be feasible that are now feasible.
3. There is no new information, which was not known and could not have been known at the time of the EIR that was not discussed in the EIR.

Based upon these findings, it has been determined that no further environmental documentation is required for this project.

## **LOCAL PREFERENCE**

The local preference was not implemented based on grant funding requirements of the California

High Speed Rail Cooperative Agreement which includes federal funds.

## **FISCAL IMPACT**

The \$150 million Veterans Boulevard Project which is located in Council District 2 will have no impact on the General Fund. The overall Veterans Boulevard project is being funded through CHSRA, various types of Measure "C" funding, Regional Transportation Mitigation Impact Fees (RTMF), and City of Fresno Development Impact Fees. The City continues to explore funding options to fully fund the Veterans Boulevard Interchange and Extension Project. This contract falls under the Veterans Boulevard grade separation scope and is included in the cooperative funding agreement with CHSRA. The overall cost associated with the construction of this package is \$5,819,900.00 and is fully funded by the CHSRA. All funds necessary for the contract award are included in this fiscal years approved City of Fresno budget. Of the overall budget of the project, \$4,693,392.60 will be used for the construction contract award.

### **Attachments:**

Bid Evaluation

Fiscal Impact Statement

Vicinity Map

Standardized Contract