



## STAFF REPORT

**MEETING DATE:** September 25, 2024

**PRESENTER:** Jesus Gonzalez, City Engineer

**SUBJECT:** Consider Rejecting All Bids Received for the Hart Ranch Community Park Project and Authorizing Advertisement of Revised Bid Documents (JG)

**RECOMMENDATION:** Council by motion adopt resolution rejecting all bids for the Hart Ranch Community Park Project and authorizing staff to advertise revised bid documents.

### EXECUTIVE SUMMARY:

The City recently opened bids for the Hart Ranch Community Park Project. The lowest bid received came in under the Engineer's Estimate. The City received a protest by the third lowest bidder against the two lowest bidders and by the second lowest bidder against the first. The basis of the protests pertained to the bidders' responsiveness due to perceived omissions in the submitted bid documents and responsibility based on perceived lack of licensure and work experience outlined as requirements in the Project's specifications. The review by staff and the City Engineer determined there was a lack of clarity in the bid documents as to licensure, qualifications, and the "allowance" aspect of the lake portion of the Project. Review also reflected that many of the requirements may limit competition. Based on the foregoing staff is recommending the rejection of the bids and a re-bid of the project.

### DISCUSSION

The project was advertised in the Business Journal on June 28, 2024, the Kerman News on July 3, 2024, and the Mid-Valley Times on July 4, 2024. Additionally, the Project was posted on the City of Kerman website and listed on Builders Exchanges. Four bids were received and publicly opened on August 7, 2024 at 2:00 P.M. at Kerman City Hall. The results are as follows:

Hart Ranch Community Park	Base Bid
Avison Construction, Inc.	\$11,859,665.00
American Paving Co.	\$12,412,283.10
Kya Services, LLC	\$13,771,165.00
Caliber Contracting Services	\$16,963,829.00

The Project Engineer's Estimate was \$12,255,000 and bids came in between \$11,859,665.00 million and \$16,963,829.00.

On August 9, 2024, following the opening of bids, the City received a bid protest from the third low-bidder, KYA Services, LLC (KYA). The basis of KYA's protest is that neither American Paving Co. (APC) nor Avison Construction, Inc. (Avison) had submitted the requisite documentation regarding experience relating to the lake. Later that same day, the City also received a bid protest from the second low bidder, APC. The basis of APC's Protest is that Avison did not possess a Qualified Applicator License (QAL) Category F, as required by the Bid Specifications, nor did it list a subcontractor possessing such license. On August 13, 2024, the City received a supplemental protest from APC contending Avison's bid was nonresponsive for failure to have the principal's signature notarized on the bid bond.

### Review of Bids

The review of the specifications reflected a lack of clarity as to the qualifications for the water feature. This lack of clarity included: (i) lack of clarity as to what the lake "allowance" meant; (ii) stating that the QAL license was to be possessed "during the course of construction and commissioning" which implied it was not required when the bid was submitted, (iii) the term "eight (8) years prior experience constructing lakes of similar size and complexity" was not clear, and (iv) the required listing of comparable projects was unclear. There were other requirements in the specifications such as "Contractor Maintenance License" that were overbroad. Based on this, it was difficult not only to ascertain responsiveness, but also responsibility. The manner in which the specifications were written may have also limited competition. Additionally, the language stating the lake was an "allowance" did not conform to the qualifications for the lake.

For these reasons staff, in consultation with the City Engineer and City Attorney, determined to recommend the rejection of all bids and did not complete its determination on the bid protests.

### Rebidding the Project

Under California Public Contracts Code Section 20166, a public entity retains the discretion to reject all bids received on a given project. Based on the foregoing and potential continued issues with determining the lowest responsive and responsible bidder due to unclear bid specifications, staff believes that rebidding the project is in the best interest of the City. Moving forward staff and the City Engineer will review the specifications to revise and clarify language regarding the lake, requisite licensing, qualifications, experience, and other requirements. Once the language creating ambiguity is clarified, staff will advertise for bids which is likely within 30 days.

### **ATTACHMENTS:**

A. Resolution

**RESOLUTION NO. 24-\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN REJECTING BIDS FOR THE HART RANCH COMMUNITY PARK PROJECT AND AUTHORIZING THE RE-ADVERTISEMENT FOR BIDS**

WHEREAS, the Invitation to Bid for the Hart Ranch Community Park Project, in the City of Kerman was published in the Business Journal on June 28, 2024, the Kerman News on July 3, 2024, the Mid-Valley Times on July 4, 2024 and was sent to Builders Exchanges; and

WHEREAS, bids for the project were publicly opened and read aloud at Kerman City Hall on August 7, 2024 at 2:00 p.m.; and

WHEREAS, after a review of the bids received and a review of the bid specifications, staff has recommended that all bids be rejected and that the Project be re-advertised; and

WHEREAS, pursuant to California Public Contracts Code Section 20166, a public entity retains the discretion to reject all bids on a given project.

NOW, THEREFORE, the City Council of the City of Kerman resolves as follows:

Section 1. The foregoing recitals are deemed true and correct.

Section 2. All bids received by the City of Kerman on August 7, 2024 for the Hart Ranch Community Park Project are hereby rejected.

Section 3. Staff is authorized to revise the bids specifications and to re-advertise the project.

Section 4. This resolution is effective upon adoption.

The foregoing resolution was adopted by the City Council of the City of Kerman at a regular meeting held on the 25<sup>th</sup> day of September 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The foregoing resolution is hereby approved.

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Maria Pacheco  
Mayor

ATTEST:

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Josie Camacho  
City Clerk