



Council Agenda Report

From: Ditas Esperanza, Capital Projects Engineer

Subject: Approval of Wright Way Project – Reject Newton Construction’s Bid as Nonresponsive and Award Construction Agreement to JJ Fisher Construction and Construction Management Services to Cannon Corporation

CEQA Determination: A mitigated negative declaration was prepared for the [2004 update to the Airport Master Plan](#) and was certified by City Council on November 16, 2004. The Master Plan envisioned several lots for future development, including the construction of a new cul-de-sac road, Wright Way, which connects to Dry Creek Road. Consistent with the California Environmental Quality Act pursuant to Guidelines Section 15162, no subsequent environmental analysis is required.

Date: March 21, 2023

Facts

1. The City operates the Municipal Airport for the benefit of the community and the flying public. A key element of airport operations is leasing available land for aeronautical service uses and for non-related uses that generate revenue support for airport operations.
2. As developer of the Airport facility, the City is obligated to provide certain off-site improvements for the support of various development projects. This includes new streets and utilities to serve the lease sites.
3. As new sections of the airport are developed offsite improvements are often required.
4. Currently two leases in the southern portion of the Airport are being finalized and will require construction of a new street - Wright Way.
5. On [February 1, 2022](#), City Council directed staff to engage the services of Cannon Corp. to prepare final plans and bid documents to construct Wright Way.
6. Bids were advertised and at the bid opening on February 23, 2023, six bids were received. The engineer’s estimate was \$1,520,000.

<u>Construction Company</u>	<u>Bid Amount</u>
Newton Construction	\$1,182,900.00
JJ Fisher Construction	\$1,234,567.89
Raminha Construction	\$1,288,576.00
Souza Construction	\$1,326,044.50
Granite Construction	\$1,693,740.00
Viborg Sand & Gravel	\$1,740,000.95

7. Subsequent to opening the bids, the City received a Bid Protest from JJ Fisher Construction stating that Newton Construction failed to include a signed acknowledgement of two Bid Addenda.
8. The City reviewed the protest and the bid received from Newton Construction. Bid Addendum No. 1 required bidders to adjust the quantity for Bid Item No. 35 - Minor Concrete Flush Curb. Newton Construction did not adjust the quantity for this bid item. Since Newton Construction did not acknowledge Addendum No. 1 or address the bid quantity change directed by Addendum No. 1, Newton Construction submitted a bid for less than half the quantity specified. This discrepancy impacted the amount of Newton Construction’s bid and is thus a material deviation that the City cannot waive. Therefore, the City attorney and staff recommend that the City Council reject Newton Construction’s bid as non-responsive, and award the contract to JJ Fischer Construction as the lowest responsive, responsible bidder.

9. Cannon Corp. has submitted a scope of work and fee proposal to provide construction phase engineering, including construction surveying, compaction testing, and monitoring compliance to the project specifications. Their fee is \$233,882.

Options

1. Take no action;
2. Reject Newton Construction's bid as nonresponsive and award the construction agreement to JJ Fisher Construction, in the amount of \$1,234,567.89; and engage the services of Cannon Corp. to provide construction phase engineering, in the amount of \$233,882 for the construction of Wright Way; or
3. Provide alternative direction to staff.

Analysis and Conclusions

The bid protest submitted by JJ Fisher Construction has merit because Newton Construction failed to return signed Bid Addendum No. 1, or to adjust the quantity for Bid Item 35. Newton Construction submitted a bid for less than half the quantity specified. This issue impacts the amount of the bid, and would have allowed Newton Construction to withdraw its bid without forfeiting its bid bond, thus providing Newton Construction an unfair competitive advantage. Therefore, this is a deviation that the City does not have discretion to waive, and Newton Construction's bid is considered to be a non-responsive bid. JJ Fisher Construction provided signed Bid Addenda No. 1 and 2. Staff reviewed their bid and concluded that the bid is a responsive and responsible bid and therefore, recommends that the contract be awarded to JJ Fisher Construction.

Cannon Corp. provided the final design and prepared the bid documents for Wright Way and it is in the City's best interest to have them continue their work through the construction phase, in the amount of \$233,882.

CEQA

A mitigated negative declaration was prepared for the 2004 Update to the Airport Master Plan and was certified by the City Council on November 16, 2004. The Airport Master Plan anticipated commercial/industrial and commercial aviation lease sites of approximately 5 acres in size between Dry Creek Road and the airport taxiway to the north. The tentative tract map would retain the development pattern anticipated by the 2004 updated Master Plan. Consistent with CEQA Guidelines Section 15162, no subsequent environmental analysis is required unless there is substantial evidence of new or increased significant environmental effects. Mitigation measures required for the of the 2004 Airport Master Plan have been incorporated into the project.

Fiscal Impact

The total cost for the construction on Wright Way is \$1,468,449.89 (\$1,234,567.89 for JJ Fisher Construction, plus \$233,882 for Cannon Corp.). The Airport Enterprise Fund's adopted budget for the construction of Wright Way project is \$1.5 million and, as a result, no other action is required.

Recommendation (Option 2)

Reject Newton Construction's bid as nonresponsive and approve Resolution 23-XXX, awarding the construction agreement to JJ Fisher Construction, in the amount of \$1,234,567.89, and engage the services of Cannon Corp. to provide construction phase engineering, in the amount of \$233,882 for the construction of Wright Way.

Attachments

1. Resolution 23-XXX
2. Map