

**CITY OF HERMOSA BEACH
RESOLUTION NO. 23-XXXX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH,
CALIFORNIA APPROVING THE CONSTRUCTION OF CIP 696 POLICE
STATION IMPROVEMENTS PROJECT PURSUANT TO GOVERNMENT CODE
SECTION 830.6, SUSTAINING THE DETERMINATION OF NON-
RESPONSIVENESS AND NON-RESPONSIBILITY, AND ESTABLISHING A
PROJECT PAYMENT ACCOUNT**

WHEREAS, The City solicited competitive bids for the Police Station Improvements Project; and

WHEREAS, Bids were received and opened publicly on November 2, 2023, and [R Dependable Const Inc.] was chosen as the lowest responsible bidder;

WHEREAS, There was another bidder (Esparza Development) that submitted a lower bid than R Dependable Const Inc.; however after a bid protest, City staff determined that this bid was non-responsive and that the bidder was not responsible;

WHEREAS, The City Council, desires to confirm City staff's determination and award the construction contract to the lowest responsible bidder, [R Dependable Const Inc.] for the Police Station Improvements Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. On November 2, 2023 the City received a total of five (5) bids which are summarized below:

BIDDER	BID AMOUNT
Esparza Development	\$ 136,000.00
R Dependable Const Inc.	\$ 148,790.00
Meyers Construction Co.	\$ 164,600.00

ENL Building Service Inc.	\$ 167,000.00
CTG Construction, Inc. DBA C.T. Georgiou Painting Co	\$ 250,000.00

On November 13, 2023, the City received a formal bid protest from the second apparent low bidder (R Dependable Const Inc) with respect to CIP 696 Police Station Improvements Project. In pertinent, the bid protest noted that in the City's instruction to bidders, the bid documents required that the Contractor demonstrate that it shall have a minimum of five (5) projects of similar type of construction and magnitude with other public agencies within the past five (5) years. Further, the bid protest pointed out that the bid by Esparza Development listed only one (1) project that ended in 2016 (i.e., did not list a minimum of five (5) projects of similar type of construction and magnitude with other public agencies within the past five (5) years).

Per the *Protest Procedures* outlined in Section III of the *Instruction to Bidders* in the Project Contract Documents, the bid protest was sent to all parties that may be affected by the outcome of the protest. A deadline for submitting a response to the bid protest was established for Wednesday November 22, 2023, at 12 p.m. Esparza Development did not respond to the bid protest. As such, the City staff recommends sustaining the protest, determining that the apparent low bid is materially non-responsive as it did not list the required five (5) projects of similar type of construction and magnitude with other public agencies within the past five (5) years. Further, the lack of the required projects within the stated period of time results in a determination that the bidder is non-responsible pursuant to Public Contract Code § 1103 in that the bidder lacks the required experience to satisfactorily perform the public works contract.

Thus, the City Council rejects the Esparza Development's bid on the above bases and awards the construction contract to the lowest responsible bidder, [R Dependable Const Inc.] for the Police Station Improvements Project.

SECTION 2. The City Council wishes to obtain the immunities set forth in Government Code § 830.6 with regards to the plans and construction of the Project. The City Engineer finds that the plans are complete, and the Project may be constructed.

SECTION 3. Design Immunity; Authorization

A. The design, plans and vendor proposal for the Project are determined to be consistent with the City's standards and are approved;

B. The design approval set forth in this Resolution occurred before actual work on the Project construction commenced;

C. The approval granted by this Resolution conforms with the City's General Plan;

D. The City Engineer, or designee, is authorized to act on the City's behalf in approving any alterations or modifications of the design and plans approved by this Resolution; and

E. The approval and authorization granted by this Resolution is intended to avail the City of the immunities set forth in Government Code § 830.6.

SECTION 4. For purposes of the Contract Documents administering the Project, the City establishes an account containing sufficient monies from the current and following fiscal year budget to pay for the project. This Account is the sole sources of funds available for the Construction Sum as defined in the Contract Document administering the Project.

SECTION 5. The Project is exempt under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15301 (Existing Facilities). The proposed work is a minor alteration of existing public structures or facilities involving negligible or no expansion of existing use. No exceptions to the CEQA exemption apply.

SECTION 5. The City Clerk is directed to certify the adoption of this Resolution.

SECTION 6. This Resolution will become effective immediately upon adoption.

PASSED, APPROVED, and ADOPTED on this 12th day of December, 2023.

Mayor Justin Massey
PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, CA

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla, MPA, CMC
City Clerk

Patrick Donegan,
City Attorney