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May 11, 2021

County of Fresno- Public Works Department & Planning

2220 Tulare St. 7th Floor

Fresno CA 93721

RE: AMERICAN AVENUE AND GOLDEN STATE BLVD INTERSECTION 20-20-C

This letter is in response to the protest letter sent by Avison Construction dated May 6th, 2021. Avison Construction (Avison) claims that AJ Excavation (AJ) should be deemed non-responsive because AJ did not submit the original bid bond prior to the bid opening. Avison also references that all the other bidders on the project either submitted an electronic bid bond or supplied a paper copy prior to the bid opening. Below is our response to Avison's protest letter.

Under the Bid Security Section in the Bid Express Website there is the following Note:

Note: While it is strongly encouraged that you comply with the above bidding requirement if at all possible, it is acknowledged that this bid opening is occurring during the COVID-19 State of Emergency in Fresno County, the impact of which is immense. If, as a result of the emergency, you are unable to provide the original bid security or electronic bid bond prior to the bid opening (and if your bid is otherwise appropriately responsive to bid requirements), then staff will request that the Board of Supervisors consider exercising its discretion to waive the bidding irregularity (regarding the time of delivery of the bid security) if you: (1) attach a scanned copy of the original bid security to the Bid; and (2) provide for hand-delivery of the original bid security to the County within 24 hours of the bid opening.

The note states that the County of Fresno Public Works will request that the board waives the bidding irregularity if contractors scan a copy of their bid bond with their bid and provide the County with a copy of their bid bond within 24 hours of the bid opening. AJ chose this option at bid time.

The Notice to Bidders states, *Due to the Covid-19 restrictions and guidelines, the Department's bid reception desk is closed and all bidders are encouraged submit bids online through Bid Express.* For this reason, AJ chose to submit our bid through the Bid Express Website. AJ did not receive a paper copy of our bid bond for this project until Wednesday May 5th one day prior to the bid opening. We were unsure if our bid bond would be able to be received by the County prior to the bid opening via mail and in light of the aforementioned statement in the notice to bidders encouraging bidders to utilize Bid Express instead of physically dropping off a bid we decided it was in our best interest to choose to submit our bid bond per the above note in the Bid Express System.

If we had thought our bid would be scrutinized by other contractors, we would have physically delivered the bid bond to the County to avoid the situation we are in and hope that the Board of Supervisors will waive this bidding irregularity during this time.

AJ currently has an ongoing construction contract with the County of Fresno and it has experienced first hand that the preferred method to exchange paper documents is via mail or electronically. This came in to play when choosing how to submit the bid bond for this project.

A few items to consider:

- 1) AJ Excavation turned in a complete and responsive low bid for this contract. Including all the requested documents.
- 2) AJ Excavation PDF copy of the Original Bond that was submitted prior to bid opening and viewed by all contractors during the bid opening.
- 3) At the time of the bid opening AJ Excavation was the apparent low bidder, saving the County of Fresno \$92,824.00 which in itself is a great start to the project.

A.J. Excavation appreciates your time and consideration and it is our hope that this project is awarded to our company.

Thank you,

A handwritten signature in black ink, appearing to read 'ALISA EMMETT', written over a large, light-colored oval shape.

ALISA EMMETT
President
A.J. Excavation Inc.