



29844 Haun Rd. Menifee CA. 92586  
(951) 672-6777 | Fax (951) 679-3843  
cityofmenifee.us

November 1, 2023

Act1 Construction  
444 Sixth Street  
Norco, CA 92860

To Whom It May Concern:

The City of Menifee is in receipt of your bid protest (Attachment 1) received on October 11, 2023 related to Capital Improvement Project **CIP 19-15: Central Park Amphitheater**, which had its bid opening on October 5, 2023.

Pursuant to the bid documents, and specifically the bid protest instructions outlined within the Notice of Intent to Award issued for the project, Bidders may file a “bid protest” of any Bid(s) with the Agency’s Purchasing Department at City Hall, 29844 Haun Rd, Menifee, California 92586. The bid protest must satisfy all of the following requirements:

- A. Be filed in writing not later than 5:00 p.m. on the fifth business day after the Notice of Intent to Award has been posted;
- B. Clearly identify the specific alleged irregularity or other basis for the bid protest;
- C. Specify, in detail, the factual and legal grounds for the bid protest; and
- D. Include all relevant supporting documentation with the bid protest at time of filing.

If the bid protest does not meet all these requirements, the Agency may reject it without further review.

If the bid protest is timely and complies with all of the above requirements, the Agency’s Procurement Manager, or other designated Agency staff member, shall review the bid protest, any response from the challenged Bidder, and all other relevant information. The Agency may at its discretion prepare a response to the bid protest. Agency staff may make recommendations to the awarding authority to consider, accept, or reject any bid protest(s) in connection with the award of the contract for the Project.

In awarding a competitively bid public works project, California Public Contract Code requires the City determine the lowest apparent bid received is “responsive” and “responsible”.

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<b>Bill Zimmerman</b> Mayor	<b>Bob Karwin</b> Mayor Pro Tem District 1	<b>Ricky Estrada</b> Councilmember District 2	<b>Lesla A. Sobek</b> Councilmember District 3	<b>Dean Deines</b> Councilmember District 4	<b>Armando G. Villa</b> City Manager
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At issue from the bid protest received is determining whether the lowest apparent bidder, **Optima RPM, Inc**, failed to meet the “responsive” and/or “responsible” requirements, based on the items identified within the protest letter.

Following review and analysis of the protest and consultation with legal counsel, the City has determined that your protest will be rejected. City staff has independently reviewed and confirmed the bid bond documents to be recognized and honored by the issuing Surety company, as well as reviewed the licensing of Optima and its employees presented to satisfy the requirements to legally perform the work included within the scope of work of the project.

**Conclusion:**

The City appreciates Act1’s concerns regarding **CIP 19-15: Central Park Amphitheater Project and** wants to assure all interested parties that in its in evaluation/analysis of the bid responses and bid protests received, the City’s main focus is to ensure a fair and competitive process and make a decision that is in the best interest of the City of Menifee and bidders. In reviewing the submitted concerns, the City has determined that the concerns presented are either not valid and would not result in the disqualification of Optima RPM as a responsive and responsible bidder for this project. Therefore, the City rejects your bid protest and recommends proceeding with an award of the contract to **Optima RPM, Inc**.

Sincerely,

Amir Zaki  
Finance Manager

Margarita Cornejo  
Deputy Finance Director



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*Nick Fidler*

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Nick Fidler  
Public Works Director

*Jonathan Nicks, Deputy City Manager*

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Jonathan Nicks  
Deputy City Manager

Attachments:

- 1. Bid Protest Received (10/11/2023)