



Gaston County

Gaston County
Board of Commissioners
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Economic Development Commission Board Action

File #: 20-091

Commissioner Jack Brown - EDC - To Award a Contract for Apple Creek Corporate Park Early Demolition Package to Cloningers Inc. at a Cost Not to Exceed \$179,043.00 and Authorize the County Manager to Execute Any Necessary Contract Documents

STAFF CONTACT

Donny Hicks - Economic Development - 704-825-4046

BUDGET IMPACT

No additional county funds. Funds coming from Land Purchase and Development 040-07-4920-4920-540004-18120 (Apple Creek).

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

The Gaston County Board of Commissioners approved purchase of (+/-) 330 acres in FY19 to develop the Apple Creek Corporate Park. The property has existing buildings/structures that must be removed for development of the business park. A pre-qualifications process was completed and bids were accepted at the Gaston County Economic Development Office on January 22, 2020 at 2 pm. Benesch recommend to Gaston County Economic Development Commission and the Gaston County Commissioners that this project contract be awarded to Cloninger Inc., a NC Unlimited General Contractor whose license number is #64057 (with classifications for Highway, PU, and Building), in the amount of one hundred seventy-nine thousand, forty-three dollars and zero cents (\$179,043.00 USD).

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DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFraley	BHovis	TKelgher	TPhillips	RWorley	Vote
2020-051	02/25/2020	BH	JB	A	A	AB	A	AB	A	A	U

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

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Bids were received from the following contractors:

Neilll Grading and Construction Co. - \$251,800.00

John E Jenkins, Inc - \$446,200.00

NEO Corporation - \$347,920.00

Cloningers, Inc - \$179,043.00

DH Griffin - Late Bid - Returned Unopened

Jones Grading and Fencing, Inc - \$325,931.20

Jones Grading and Building, Inc. - \$165,400.00

Please note that the bid proposal by Jones Grading and Fencing, Inc. is recommended, by Alfred Benesch & Co., to be disqualified and declared invalid on the grounds that they did not include the correct Licensure number on their proposal, they used the same number as Jones Grading and Building Inc. Further, the license submitted is limited with a classification of highway. The project whose primary purpose is to demolish and dispose of vertical buildings does not fall into that classification (most appropriately would be building). They listed no subcontractor whose licensure would change that view.

Further, also note that the bid proposal by Jones Grading and Building, Inc. also used the same NC General Contractor License number (67355 as above) and is a limited license with classification highway (as mentioned above). A copy of the license was not provided in this proposal as required. This project's primary purpose is the demolition and disposal of buildings. Highway classification does not fall into that category. Benesch recommends this bid be considered invalid due to lack of compliance with bid specifications. See "Notice to Bidders" which says: "bidding contractor must be appropriately licensed to perform the work". Limited, Highway Classification is not appropriate to a demolitions package for buildings and failure to provide a copy of the licensure with their bid.

Notwithstanding any resultant information from our diligence regarding the question of whether or not two or more companies, who are tied by the affiliation of one individual, can submit formal or informal bids on a public project in NC; our recommendation stands. Benesch was unable to determine conclusively through precedent, statute, or public policy whether or not this practice is permitted.

POLICY IMPACT

N/A

ATTACHMENTS

Recommendation of Contract Award - Apple Creek Corporate Park Early Demolition Package



Alfred Benesch & Company
2018 Eastwood Road, Suite 111
Wilmington, NC 28403
www.benesch.com
P 910-344-0143

January 23, 2020

Mr. Charles Moore, esq.
Gaston County Attorney
Administrative Building
128 W. Main Avenue
Gastonia NC

Via: electronic transmission (only)

Reference: Recommendation of Contract award – Apple Creek Corporate Park Early Demolition Package

Dear Mr. Moore:

Please find the attached certified bid tabulations resulting from bids accepted at the Gaston County Economic Development Office on January 22, 2020 at 2 pm. The purpose of this letter is to recommend to you, and the Gaston County Commissioners that this project contract be awarded to *Cloninger Inc.*, a NC Unlimited General Contractor whose license number is #64057 (with classifications for Highway, PU, and Building), in the amount of one hundred seventy-nine thousand , forty-three dollars and zero cents (\$179,043.00 USD).

This contract shall be expressed, executed and prosecuted and according to bid documents issued by our office on behalf of Gaston County. The contractor will be responsible to obtain all payment and performance bonds and produce executed contract within 10 days after being issued to them. Benesch will prepare the contract document upon direction of Gaston County.

Please note that the bid proposal by *Jones Grading and Fencing, Inc.* is recommended ,by Benesch , to be disqualified and declared invalid on the grounds that they did not include the correct Licensure number on their proposal, they used the same number as Jones Grading and Building Inc. – 67355. During our diligence today we checked and the correct license number for Jones Grading and Fencing is 17987. Further, the license submitted is *limited* with a classification of highway. The project whose primary purpose is to demolish and dispose of vertical buildings does not fall into that classification (most appropriately would be building). They listed no subcontractor whose licensure would change that view.

Further, also note that the bid proposal by *Jones Grading and Building, Inc.* also used the same NC General Contractor License number (67355 as above) and is a limited license with classification highway (as mentioned above). A copy of the license was not provided in this proposal as required. This project's primary purpose is the demolition and disposal of buildings. Highway classification does not fall into that category. We recommend this bid be considered invalid due to lack of compliance with bid specifications. See "Notice to Bidders" which says: " bidding contractor must be appropriately licensed to perform the work". Limited, Highway Classification is not appropriate to a demolitions package for buildings and failure to provide a copy of the licensure with their bid.

Notwithstanding any resultant information from our diligence regarding the question of whether or not two or more companies, who are tied by the affiliation of one individual, can submit formal or informal bids on a public project in NC; our recommendation stands. Benesch was unable to determine conclusively through precedent, statute, or public policy whether or not this practice is permitted.



We spoke with Mr. Frank Wiesner, Executive Director at the NC General Contractor License Board regarding these issues today and encourage you to contact him should you have further questions. He remarked to me that he would be happy to coordinate and make available counsel representing the Licensure Board to Gaston County Attorney office for further discussion with consideration of your upcoming recommendation to Gaston County Commissioners.

There are other sources that could be consulted regarding the aforementioned potential issues such as the Council of Government, and the NC Department of Administration (whom we were unable to reach today), and the NC Attorney General's office, but given the information we already have and for the sake of efficiency and time we move forward with our recommendation of Cloninger, Inc. as the contractor awarded the work in this case.

Please also feel free to contact me should you require additional information or clarification. We have also included as exhibits the actual bid packages from Cloninger Inc., Jones Grading and Fencing, and Jones Grading and Building. All other bids are on file should you desire to examine them as well.

Sincerely,
Alfred Benesch & Company

A handwritten signature in black ink that reads "Benjamin Simpson".

Benjamin Simpson, ASLA, PLA

Exhibits: Certified Bid Tabulation
 List of Plan holders
 Bid Proposal – Cloninger, Inc
 Jones Grading and Fencing, Inc.
 Jones Grading and Building Inc.

Electronic copy to : Donny Hicks, Executive Director, GEDC
 Richard Callahan, Benesch
 Kevin Desilet, Benesch
 Brian Cannella, NC Division Manager, Benesch