











nature of this project and its intended use as an asphalt sidewalk for pedestrian and bicycle traffic, prequalification for “asphaltic concrete paving” was not required for bidding, and on review, the Department finds no reason to reverse that decision.

The Department does not agree that a contractor must be prequalified for every item of work within a project in order to bid a project. The Department does require bidders to be prequalified for all key elements of work within a project. For this project, the Department required bidders to be prequalified for “grading and draining”, “landscaping and irrigation” and “miscellaneous concrete”. Carson met all of those requirements.

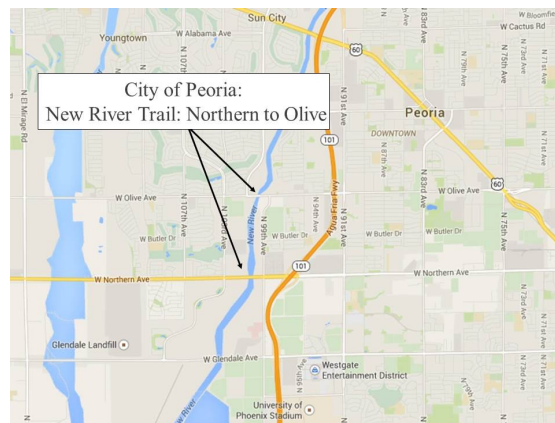
FNF cites two contracts to support its claim for rejection of the Carson bid. While we agree that the low bid in those examples was rejected, we find no relevance in those examples which would support rejection of the Carson bid on this project. The two examples were:

- H770501C – This project included construction of a retaining wall. Because that wall supported the adjacent roadway embankment and highway traffic loads it was considered a key element of work within that project. Because it was a reinforced concrete retaining wall, it required prequalification for minor concrete structures. The low bidder was not prequalified for minor concrete structures and its bid was rejected. That contract was awarded in 2011.
- SH48701C-SH48901C-SH49701C-SH54801C – These four projects were combined into one contract for bidding purposes, but involved only two types of work. Three of the four projects were for pavement marking work and the fourth project was for sign replacement work. The low bidder was not prequalified for pavement marking and its bid was rejected. That contract awarded in 2013.

However, we find that the one example cited by Carson to support its position does merit consideration:

- SS84601C – This project is in many ways similar to the current project. It involved construction of a pedestrian pathway along New River, ending at Northern Avenue where the current project begins. The work included a significant amount of “soil cement bank protection” much like the “cement stabilized alluvium” of the current project. The work also included “aggregate base”, “removals”, and a nominal amount of “asphaltic concrete” work. The Department did not require bidders in that project to be prequalified for “removals”, “aggregate base”, “soil cement bank protection” or “asphaltic concrete” in order to bid that project. However, like the current project, the Department did require prequalification in the categories of “grading and draining”, “landscaping and irrigation” and “miscellaneous concrete”. FNF was also among the bidders on SS84601C, but was not the low bid or second low bid. The contract for that adjacent project was awarded in April, 2014.

In summary, the Department finds that Carson was and is prequalified for the categories of work needed for bidding this project. The Department recommends that the Board reject the protest of FNF Construction and recommends award of this contract to Carson Construction.



Dated this 10th day of December, 2014  
 STATE TRANSPORTATION BOARD  
 By: Mary Beckley