REPORT TO COUNCIL 15
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

CONSENT
July 31, 2007

Honorable Mayor and
Members of the City Council

Title: Revised Minimum Qualifications Questionnaire for Competitively Bid Public Works Construction Projects

Location/Council District: Citywide

Recommendation: Adopt a **Resolution** revising the Minimum Qualifications Questionnaire for competitively bid public works construction projects.

Contact: David Flores, Jr., Administrative Analyst, 808-8930; Nicholas Theocharides, Engineering Services Manager, 808-5065.

Presenters: None

Department: Transportation

Division: Engineering Services

Organization No: 3431

Description/Analysis

Issue: The current Minimum Qualifications Questionnaire requires contractors to answer questions with respect to their licensing status, violations, and other qualifying information based on the performance of the company as a whole. For large companies doing business in many parts of the state or in other states, as well as in Sacramento, a violation by an operating unit, branch, or division of the company which will not perform work on the City project has the effect of disqualifying the firm from City work. Adoption of the revised Minimum Qualifications Questionnaire will require contractors to report only the performance of branches or operating units which are proposed to perform City work, and therefore not disqualify large firms which may have violations in other regions or other states.

Policy Considerations: Approval of the revised Minimum Qualifications Questionnaire is consistent with Title 3 of the Sacramento City Code.

Environmental Considerations: Adoption of the revised Minimum Qualifications Questionnaire is not a "project" as defined by the California Environmental Quality Act (CEQA) under Section 15378. The current request consists of administrative policy and procedure making and will not cause a direct or indirect physical change in the environment.

Rationale for Recommendation: A revised Minimum Qualifications Questionnaire tailored to focus on the local firm (or branch of a larger company) bidding on City public works construction projects will remedy an unintended consequence of the current pre-qualification process.

Financial Considerations: There is no fiscal impact associated with the proposed action.

Emerging Small Business Development (ESBD): There are no goods or services being purchased.

Respectfully Submitted by: _____
Nicholas Theocharides
Engineering Services Manager

Approved by: _____
Jerry Way
Director of Transportation

Recommendation Approved:

_____
RAY KERRIDGE
for City Manager

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Attachment 1

Background Information:

Sacramento City Code Section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening in order to be deemed responsible. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder for purposes of bidding on the subject project.

All bidders must demonstrate compliance with the minimum qualifications established by responding to all of the questions contained in a Minimum Qualifications Questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this results in a determination that the minimum qualifications have not been met, and the bidder is not considered a qualified bidder for purposes of bidding on the contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet the minimum qualifications for the Joint Venture to be considered a qualified bidder.

The current Minimum Qualifications Questionnaire requires contractors to answer questions with respect to their licensing status, violations, and other qualifying information based on the performance of the company as a whole. For large companies doing business in many parts of the state or in other states, as well as in Sacramento, a violation by an operating unit, branch, or division of the company which will not be performing work on the City project has the effect of disqualifying the firm from City work. Adoption of the revised Minimum Qualifications Questionnaire will require contractors to report only the performance of branches or operating units which are proposed to perform City work, and therefore not disqualify large firms which may have violations in other regions or other states.

Attachment 2

RESOLUTION NO.

Adopted by the Sacramento City Council

ADOPTING REVISED MINIMUM QUALIFICATIONS QUESTIONNAIRE FOR COMPETITIVELY BID PUBLIC WORKS CONSTRUCTION PROJECTS

BACKGROUND

A. Sacramento City Code Section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening in order to be deemed responsible. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder for purposes of bidding on the subject project.

All bidders must demonstrate compliance with the minimum qualifications established by completing all of the questions contained in a Minimum Qualifications Questionnaire. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this results in a determination that the minimum qualifications have not been met, and the bidder is not considered a qualified bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a qualified bidder.

B. The current Minimum Qualifications Questionnaire requires contractors to answer questions with respect to their licensing status, violations, and other qualifying information based on the performance of the company as a whole. For large companies doing business in many parts of the state or in other states, as well as in Sacramento, a violation by an operating unit, branch, or division of the company which will not be performing work on the City project has the effect of disqualifying the firm from City work.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The revised Minimum Qualifications Questionnaire for competitively bid public works construction projects is approved.

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Exhibit A: Revised Minimum Qualifications Questionnaire

EXHIBIT A

MINIMUM QUALIFICATIONSQUESTIONNAIRE

Sacramento City Code Section 3.60.020 authorizes the Sacramento City Council to adopt standard minimum qualifications for bidders on competitively bid public works construction projects, and requires, among other provisions, that a bidder meet such minimum qualifications at the time of bid opening in order to bid. On July 31, 2007, the City Council adopted Resolution No. 2007-___ establishing these standard minimum qualifications. Pursuant to City Code section 3.60.020, a bidder failing to meet these minimum qualifications at the time of bid opening shall not be considered a responsible bidder for purposes of bidding on the subject project.

All bidders must demonstrate compliance with the minimum qualifications established by Resolution No. 2007-___ by completing all of the questions contained in this questionnaire. Bidder responses shall be limited to those operating business units, offices, branches and/or subsidiary divisions of the bidder that will be involved with the performance of any project work if awarded the contract. If a bidder answers "yes" to any single question, fails to submit a fully completed questionnaire, or submits false information, this will result in a determination that the minimum qualifications are not met, and the bidder shall not be considered a qualified bidder for purposes of bidding on this contract. If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must separately meet these minimum qualifications for the Joint Venture to be considered a qualified bidder.

The City of Sacramento ("City") shall make its determination on the basis of the submitted questionnaire, as well as any relevant information that is obtained from others or as a result of investigation by the City. While it is the intent of this questionnaire to assist the City in determining whether bidders possess the minimum qualifications necessary to submit bids on the City's competitively bid public works construction contracts, the fact that a bidder submits a questionnaire demonstrating that it meets these minimum qualifications shall not in any way limit or affect the City's ability to: (1) review other information contained in the bid submitted by the bidder, and additional relevant information, and determine whether the contractor is a responsive and/or responsible bidder; or (2) establish pre-qualification requirements for a specific contract or contracts.

By submitting this questionnaire, the bidder consents to the disclosure of its questionnaire answers: (i) to third parties for purposes of verification and investigation; (ii) in connection with any protest, challenge or appeal of any action taken by the City; and (iii) as required by any law or regulation, including without limitation the California Public Records Act (Calif. Gov't Code sections 6250 et seq.). Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the bidder submitting the questionnaire. If any information provided by a bidder becomes inaccurate, the bidder shall immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

QUESTIONNAIRE

NOTICE: **For firms that maintain other operating business units, offices, branches and/or subsidiary divisions that will not be involved with the performance of any project work if the firm is awarded the contract, references hereafter to "your firm" shall mean only those operating business units, offices, branches and/or subsidiary divisions that will be involved with the performance of any project work.**

All of the following questions regarding "your firm" refer to the firm (corporation, partnership or sole proprietor) submitting this questionnaire, as well as any firm(s) with which any of your firm's owners, officers, or partners are or have been associated as an owner, officer, partner or similar position within the last five years

The firm submitting this questionnaire shall not be considered a responsible bidder if the answer to any of these questions is "yes", or if the firm submits a questionnaire that is not fully completed or contains false information.

1. **Classification & Expiration Date(s) of California** Contractor's License Number(s) held by firm:

_____

2. Has a contractor's license held by your firm and/or any owner, officer or partner of your firm been revoked at anytime in the last five years?

   ☐ Yes ☐ No

3. Within the last five years, has a surety firm completed a contract on your firm's behalf, or paid for completion of a contract to which your firm was a party, because your firm was considered to be in default or was terminated for cause by the project owner?

   ☐ Yes ☐ No

4. At the time of submitting this minimum qualifications questionnaire, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either California Labor Code section 1777.1 (prevailing wage violations) or Labor Code section 1777.7 (apprenticeship violations)?

   ☐ Yes ☐ No

5. At any time during the last five years, has your firm, or any of its owners, officers or partners been convicted of a crime involving the awarding of a contract for a government construction project, or the bidding or performance of a government contract?

   ☐ Yes ☐ No

6. Answer either subsection A or B, as applicable:

A. Your firm has completed three or more government construction contracts in Sacramento County within the last five years: Within those five years, has your firm been assessed liquidated damages on three or more government construction contracts in Sacramento County for failure to complete contract work on time?

NOTE: If there is a pending administrative or court action challenging the assessment of liquidated damages on a government contract within the last five years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

OR

B. Your firm has not completed at least three government construction contracts in Sacramento County within the last five years: Within the last three years, has your firm been assessed liquidated damages on three or more government construction contracts for failure to complete contract work on time?

NOTE: If there is a pending administrative or court action challenging an assessment of liquidated damages on a government contract within the last three years, you need not include that contract in responding to this question.

☐ Yes ☐ No ☐ Not applicable

7. In the last three years has your firm been debarred from bidding on, or completing, any government agency or public works construction contract for any reason?

NOTE: If there is a pending administrative or court action challenging a debarment, you need not include that debarment in responding to this question.

☐ Yes ☐ No

8. Has CAL OSHA assessed a total of three or more penalties against your firm for any "serious" or "willful" violation occurring on construction projects performed in Sacramento County at any time within the last three years?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

9. Answer either subsection A or B, as preferred:

A. In the last three years has your firm had a three year average Workers' Compensation experience modification rate exceeding 1.1?

☐ Yes ☐ No

OR

B. In the last three years has your firm had a three-year average incident rate for total lost workday cases exceeding 10?

NOTE: Incident rates represent the number of lost workday cases per 100 full-time workers and is to be calculated as: (N/EH) x 200,000, where

N	=	**number of lost workday cases (as defined by the U.S. Dept. of Labor, Bureau of Labor Statistics)**
EH	=	**total hours worked by all employees during the calendar year**
200,000	=	**base for 100 equivalent full-time working (working 40 hours per week, 50 weeks per year)**

☐ Yes ☐ No

10. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed penalties three or more times, either against your firm, or against the project owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was a contractor in Sacramento County?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

11. In the past three years, has the federal EPA, Region IX or a California Air Quality Management District or Regional Water Quality Control Board assessed a single penalty of $100,000 or more, either against your firm, or against the project owner for a violation resulting in whole or in part from any action or omission by your firm on a project on which your firm was the contractor in Sacramento County?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

12. In the past three years, have civil penalties been assessed against your firm pursuant to California Labor Code 1777.7 for violation of California public works apprenticeship requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

13. In the past three years, has a public agency in California withheld contract payments or assessed penalties against your firm for violation of public works prevailing wage requirements, three or more times?

NOTE: If there is a pending administrative or court action appealing a withholding or penalty assessment, you need not include that withholding or penalty assessment in responding to this question.

☐ Yes ☐ No

14. Has your firm been assessed penalties for violation of public works prevailing wage requirements in California, in an aggregate amount for the past three years of $50,000 or more?

NOTE: If there is a pending administrative or court action appealing a penalty assessment, you need not include that penalty assessment in responding to this question.

☐ Yes ☐ No

VERIFICATION AND SIGNATURE

I, the undersigned, certify and declare that I have read all the foregoing answers to this Minimum Qualifications Questionnaire, and know their contents. The matters stated in these Questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and corred.

Signed at _____, on _____.
(Location) (Date)

Signature: _____

Print name: _____

Title: _____

NOTE: If two or more entities submit a bid on a contract as a Joint Venture, each entity within the Joint Venture must submit a separate Minimum Qualifications Questionnaire.