



File #: 24-0552, Version: 1

REPORT TO COUNCIL

SUBJECT

Award a Contract to Joseph J Albanese, Inc. in the Amount of \$3,782,663 for Peery Park Area Transportation Improvements - Re-Bid, Approve a 10% Construction Contingency, Allow the Withdrawal of a Bid in Conformance with Public Contract Code Section 5103, Make a Finding of California Environmental Quality Act (CEQA) Exemption Pursuant to CEQA Guidelines Sections 15301 and 15303, and Approve Budget Modification No. 22 in the Amount of \$438,000 (PW24-09)

REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$3,782,663 to Joseph J Albanese, Inc. of Santa Clara, CA for Peery Park Area Transportation Improvements - Re-Bid Project and for approval of a 10% construction contingency in the amount of \$378,266. A low bid in the amount of \$2,368,610 was also received from S&H Construction Inc. (S&H), but the contractor requested to withdraw the bid in conformance with Public Contract Code Section 5103 due to their mathematical mistake. Staff recommends allowing the S&H bid to be withdrawn as explained below. Staff is also recommending approval of Budget Modification No. 22 in the amount of \$438,000 to fund the project.

EXISTING POLICY

Pursuant to Section 2.09.040 of the Sunnyvale Municipal Code, City Council approval is required for awards of public works contracts exceeding \$250,000.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by a motion adopted by affirmative votes of at least four members to authorize the transfer of unused balances appropriated for one purpose or another, or to appropriate available revenue included in the budget.

ENVIRONMENTAL REVIEW

The proposed project is exempt under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c), which applies to the operation, repairs, maintenance, or minor alterations of existing public and private structures or facilities, involving negligible or no expansion of existing use(s). The project is also exempt under CEQA Guidelines Section 15303, which applies to construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

BACKGROUND AND DISCUSSION

The Peery Park area Transportation Improvements Project (Project No. TR-18-09) consists of removal of on-street parking, installation of new sidewalk, planter strip, curb ramps, decorative lighting, and street improvements on Potrero Avenue between Central Expressway and Maude Avenue. The project is necessary to achieve the multi-modal transportation goals of the Peery Park Sense of Place Plan and will encourage re-development as described in the plan.

On December 12, 2023, the Council rejected all bids received in response to Invitation for Bids PW23-16 Peery Park (RTC #23-1045). The bids were rejected because they were either incomplete or did not meet the Disadvantaged Business Enterprise (DBE) goal required by Caltrans for this grant project.

The Project was re-advertised on DemandStar on February 23,2024. Thirty-two contractors requested bid documents. Sealed bids were opened on March 20, 2024, with four (4) bids received. The apparent low bidder, S&H requested to withdraw their bid following the bid opening, in accordance with the Public Contract Code (PCC) Section 5103 due to mathematical mistake.

The next apparent low bidder is Joseph J Albanese, Inc., who submitted the current lowest responsive and responsible bid in the amount of \$3,782,663 (Attachment 1, Bid Summary). Staff recommends awarding the project to Joseph J Albanese of Santa Clara in the amount of \$3,782,663 and approving a 10% construction contingency in the amount of \$378,266, for a total of \$4,160,929.

FISCAL IMPACT

Project 832970 - Peery Park area Transportation Improvements is funded by Federal Congestion Mitigation and Air Quality program, One Bay Area Grant-Cycle 2 (OBAG2) grant. The total current budget is \$3,400,000, which includes \$2,686,000 in grant funding and \$714,000 in General Fund matching funds. Staff has secured additional grant funding from the OBAG2 grant in the amount of \$794,000 to bring the new grant portion of the budget to \$3,480,000. With the current match, the total project funding is \$4,194,000. The available funding in the project for construction is \$3,723,000.

The lowest responsive and responsible bid (\$3,782,663) and 10% contingency (\$378,266.30) total \$4,160,929, exceeding the available budget for construction by \$437,929.

Total Available Construction Funding	\$3,723,000
Construction Bid	\$3,782,663
Construction Contingency (10%)	\$378,266
Total construction cost	\$4,160,929
Budget Shortfall	\$(437,929)*

**Request rounded to \$438,000*

Budget Modification No. 22 would appropriate \$794,000 in new grant funds and recognize the anticipated grant revenues in the same amount. The modification would also appropriate additional local matching funds in the amount of \$335,000 from Transportation Impact Fees, and \$103,000 from Project 825290 - Pavement Rehabilitation 825290 to fully fund the construction contract.

Fund	Current	Increase/(Decrease)	Revised
Capital Projects Fund - General Assets			
<u>Revenues</u> One Bay Area Grant-Cycle 2 (OBAG2) grant	\$2,686,000	\$794,000	\$3,480,000
<u>Expenditures</u>			
Project 832970 - Peery Park Area Transportation Improvements	\$2,418,219	\$794,000	\$3,212,219
Capital Projects Fund - Transportation Impact Fee (TIF) Fund			
<u>Expenditures</u>			
Project 832970 - Peery Park Area Transportation Improvements	\$0	\$438,000	\$438,000
<u>Reserves</u>			
TIF Fund Reserve	\$37,302,013	(\$335,000)	\$36,967,013
Vehicle Registration Fee (VRF) Fund			
<u>Expenditures</u>			
Project 825290 - Pavement Rehabilitation	\$758,654	(\$103,000)	\$655,654

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and this report are available at the NOVA Workforce Services reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

RECOMMENDATION

Take the following actions:

- Award a contract in substantially same form as Attachment 2 to the report in the amount of \$3,782,663 to Joseph J Albanese, Inc. of Santa Clara, CA;
- Approve a 10% construction contingency in the amount of \$378,266;
- Authorize the City Manager to execute the contract when all necessary conditions have been met;
- Allow S&H Construction Inc., to withdraw its bid in conformance with Public Contract Code (PCC) Section 5103;
- Make a finding of a categorical exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 and 15303; and
- Approve Budget Modification No. 22 in the amount of \$438,000.

LEVINE ACT

The Levine Act (Gov. Code Section 84308) prohibits city officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$250 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html

A check or "Y" in the checklist below indicates that the action being considered falls under a Levine Act category or exemption:

SUBJECT TO THE LEVINE ACT

- Land development entitlements*
- Other permit, license, or entitlement for use
- Contract or franchise

EXEMPT FROM THE LEVINE ACT

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

Prepared by: David Battaglia, Purchasing Officer
Reviewed by: Tim Kirby, Director of Finance
Reviewed by: Chip Taylor, Director of Public Works
Reviewed by: Jaqui Guzmán, Deputy City Manager
Approved by: Sarah Johnson-Rios, Acting City Manager

ATTACHMENTS

1. Bid Summary
2. Draft General Construction Contract