



City of Sunnyvale

Agenda Item

18-1076

Agenda Date: 1/29/2019

REPORT TO COUNCIL

SUBJECT

Award of Bid No. PW19-07 for the Fair Oaks Avenue Bikeway and Streetscape Re-Bid to JJR Construction, Inc, Determination of Bid Non-responsiveness and Waiver of Minor Bid Irregularity, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approval of Budget Modification No. 15 in the amount of \$131,666

REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$961,012 to JJR Construction, Inc. of San Mateo for the Fair Oaks Avenue Bikeway and Streetscape project (Public Works Project No. TR-17-06) and for a 10% construction contingency in the amount of \$96,101. Approval is also requested for Budget Modification No. 15 in the amount of \$131,666 to fully fund the project.

EXISTING POLICY

Section 1309 of the City Charter requires construction contracts to be awarded to the lowest responsive and responsible bidder. Pursuant to Section 2.09.040 of the Sunnyvale Municipal Code, City Council approval is required for public works contracts exceeding \$100,000 in any one transaction. Further, pursuant to Section 2.09.120 (c) City Council may waive a minor bid irregularity if the discrepancy does not affect the bid amount or give the bidder an advantage over others.

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 so as to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (c) as it involves the maintenance or repair of an existing street, involving negligible or no expansion of use beyond which presently exists.

BACKGROUND AND DISCUSSION

The Fair Oaks Avenue Bikeway and Streetscape Project consists of improvements along Fair Oaks Avenue between Old San Francisco Road and Evelyn Avenue, and between Kifer Road and Ahwanee Avenue. The project scope of work includes the installation of class III bikeways (sharrows) and appropriate signage, bicycle loop detectors, pull boxes and camera systems at intersections on existing signal mast arms with new conduit and pedestrian push buttons. Other work includes upgrading existing non-ADA compliant ramps to ADA compliance, concrete improvements (sidewalk, curb and gutter, and valley gutter replacement), drainage inlet modifications, monument adjustment,

and electrical pull boxes being adjusted to finished grade.

An Invitation for Bids was issued on March 9, 2018 with only one bid received on April 4, 2018. On June 12, 2018, Council rejected the sole bid of \$1,309,598.50 (RTC No. 18-0466), which was 15% above the engineer's estimate and exceeded the available budget for the project. The project was re-advertised for competitive bidding on the City's DemandStar public procurement network and distributed to Bay Area Builders Exchange on September 7, 2018, with 13 general contractors requesting bid documents. Sealed bids were opened on November 14, 2018, with three bids received (Attachment 1).

The bid received by Golden Bay Construction, Inc. contained significant math errors, which when corrected resulted in a total bid that was approximately \$10,000,000 above the originally submitted bid. This bid is recommended to be deemed non-responsive because staff is not able to determine an accurate base bid total.

Additionally, JJR Construction, Inc., the apparent low bidder, did not acknowledge Addendum #1 issued by the City due to a confirmed error from DemandStar, which did not notify the plan holder. Depending on the factual circumstances, the failure to acknowledge an addendum can result in a bid rejection, or determination of non-responsiveness if the addendum results in a material change to the specifications or affects the bid price. In this case, since the bidder was not aware of the addendum and no material changes were made to the specifications which impacted bid pricing, staff is recommending that Council waive the omission as a minor bid irregularity.

FISCAL IMPACT

Project funding is provided through a combination of Federal grant funds, Sense of Place funds, and Transportation Development Act Grant Funding. After design, \$925,447 is available for construction. Budget Modification No. 15 recommends appropriation of \$131,666 to 831110, Fair Oaks Avenue Bike Lanes and Streetscape. A total of \$1,057,113 is necessary to fund the entire project including construction and contingency. Funding is being provided through a re-appropriation of funds available in Project 833010 - Bike and Pedestrian Safety Improvements, which is available for improvements of this type and to leverage grant funding. This project is funded by Transportation Impact Fees.

**Budget Modification No. 15
FY 2018/19**

	Current	Increase/ (Decrease)	Revised
Capital Projects Fund – General Assets Sub-Fund			
Transfers In			
From Capital Projects Fund - Transportation Impact Fees Sub-Fund	\$473,000	\$131,666	\$604,666
<u>Expenditures</u>			
Project 831110 – Fair Oaks Avenue Bike Lanes and Streetscape	\$925,447	\$131,666	\$1,057,113
Capital Projects Fund – Transportation Impact Fees Sub-Fund			
<u>Transfers Out</u>			
To Capital Projects Fund – General Assets Sub-Fund	\$473,000	\$131,666	\$604,666
<u>Expenditures</u>			
Project 833010 – Bicycle and Pedestrian Safety Improvements	\$400,000	(\$131,666)	\$268,334

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Take the following actions:

- Make a finding of California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301.
- Make a determination that the bid received from Golden Bay Construction, Inc. is non-responsive.
- Make a determination to waive the minor bid irregularity for JJR Construction, Inc.
- Award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$961,012 to JJR Construction, Inc.
- Authorize the City Manager to execute the contract when all necessary conditions have been met.
- Approve a 10% construction contingency in the amount of \$96,101.
- Approve Budget Modification 15 in the amount of \$131,666.

Prepared by: Gregory S. Card, Purchasing Officer
Reviewed by: Timothy J. Kirby, Director of Finance
Reviewed by: Chip Taylor, Director of Public Work
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Bid Summary
2. Draft General Construction Contract