

# PUBLIC WORKS DEPARTMENT BID PROTEST

City Of Salinas

Bidder's attention is directed to the, "CITY OF SALINAS SPECIAL PROVISIONS SECTION 2 PROPOSAL REQUIREMENTS AND CONDITIONS", Subsection 2-1.04.

Today's Date: May 28, 2025

Project Title: Salinas 2025 Pavement Improvements, Project 9981 Bid Opening Date: May 23, 2025

Contractor: Granite Construction Company

Contact Name: John G. Boles, Chief Estimator Phone: (707) 467-4138

Address: 580 West Beach Street

City: Watsonville State: CA Zip: 95076

Chapter 12-39. - Bid protests of the City Code provides: Any Contractor who has submitted a Bid but is not the apparent lowest responsible Bidder on a City Contract may file a protest. The Bid protest shall be filed with the City Clerk within **three working days** of the Bid opening. The City Council shall hear the Bid protest prior to adopting a resolution authorizing the Bid award and execution of the Contract. In cases where the Contract is not executed by the City pursuant to City Council resolution, the Bid protest shall be heard by the City Council prior to the time the City issues a Notice to Proceed or the appropriate City official executes the contract on behalf of the City. The protesting party may protest the Bid award for the City's or successful Bidder's failure to comply with the requirements of this article, the Bid documents, or any other applicable provision of this Code. The City Council shall sustain a Bid protest only if it finds evidence that award of the Bid would violate the Code or other applicable law. The decision of the Council shall be final.

The Contractor listed above wishes to protest one or more of the bid processes used to make the determination of the lowest responsible Bidder. The following is a statement that describes the circumstances and the issues under protest. (Additional sheet(s) can be attached as needed.)

Please be as specific as possible:

Please see attached pages, Paragraph 1

The following is a statement that clearly describes the remedy being recommended by the above Contractor. (Additional sheets can be attached as needed.)

Please be as specific as possible:

Please see attached pages, Paragraph 2

I certify under penalty of perjury that the information contained in this form is true and correct, to the best of my knowledge. (Please include this statement on all pages with an authorized signature.)

  
Signature in blue ink

Construction Manager

Title or Position (Please Print)

Brian D. Hussar

Name (Please Print)

May 28, 2025

Date

Number of Pages (including those attached) 3 pages total

## 1. Circumstances and Issues under Protest:

McKim Corporation identified itself as a Local Business Enterprise on their Proposal form (page 19), which was submitted with its bid documents, thereby qualifying for the 5% Local Business Preference. However, City of Salinas records indicate that McKim Corporation does not have a Local Business Declaration on file, as required to qualify as a Local Business Enterprise by *Section 12-12.020(d)(6) of Article III-A – Local Purchasing Preference*. The Proposal form where a bidder claims Local Business preference clearly states that "All Local Contractors must have a Declaration of Local Business Enterprise form filed with the City of Salinas Finance Department."

In addition, the Declaration of Local Business Enterprise form states that all criteria listed in Salinas Municipal Code section 12-28.020 subsection (d) must be met to qualify as a Local Business, as shown below:

Any person claiming to be a local business enterprise as defined in Article III-A of Chapter 12 of the Salinas Municipal Code shall so certify in writing under penalty of perjury that they meet all the criteria listed in Salinas Municipal Code section 12-28.020, subsection (d). A local business enterprise shall be required to submit such declaration on an annual basis and shall immediately notify the City's Purchasing Officer if there is any change in circumstances which would disqualify it from application of the preference. The City shall not be responsible or required to verify the accuracy of any such certifications and shall have sole discretion to determine if a person meets the definition of "local business enterprise."

Below are said requirements for Local Purchasing Preference, per Section 12-12.020(d)(6) of Article III-A of the City Code, which all must be met to qualify for the preference:

### Article III-A. - Local Purchasing Preference.

#### Sec. 12-28.010. - Purpose.

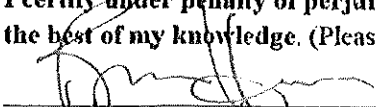
Local businesses contribute significantly to the economic health of the city and to the quality of life of the city's residents and visitors. The Salinas City Council encourages the growth of local businesses by means of increasing the participation of local businesses in the city's purchasing of goods and services through the adoption and the implementation of local purchasing regulations. Current purchasing regulations maximize competition and allow the city to obtain the best price and value for its purchases and contracts and allow for efficient procurement of goods and services with a minimum expenditure of administrative resources. Open competition is a fundamental component of the city's procurement process and this will continue through implementation of the city's local purchasing regulations.

(Ord. No. 2552, § 2, 10-21-2014)

#### Sec. 12-28.020. - Definitions.

- (a) "Bid" or "bids" shall include any competitive bid submitted at the invitation of the city.
- (b) "Bidder" shall mean any person, including any corporation or other business entity, who submits a response to a competitive invitation from the city.
- (c) "City" shall mean the city of Salinas acting through the city council, the city manager, the purchasing agent or such other person who is authorized under the city Code or otherwise duly designated to procure and execute contracts on behalf of the city.
- (d) "Local business enterprise" means a business enterprise, including but not limited to, a sole proprietorship, partnership or corporation, which has a legitimate business presence in the city of Salinas. Evidence of a legitimate business presence in the city of Salinas shall include:
  - (1) Having a current city of Salinas business license;
  - (2) Having a business office within the city of Salinas and employing at least one full-time employee within the city of Salinas;
  - (3) Being current on all city of Salinas taxes, fees, assessments, and fines;
  - (4) Not subject to enforcement action by the city or in litigation with the city;
  - (5) Began doing business within the city of Salinas at least one year prior to the city's inviting bids or quotations for the respective purchases or is a newly established business enterprise which is owned by an individual(s) formerly employed by a local business enterprise, as defined in this subsection, for at least two years immediately prior to the issuance of either a request for competitive bids or request for qualifications from the city; and
  - (6) Submitting a declaration of local business enterprise on a form provided by the city.
- (e) "Public works" purchases shall include any construction, reconstruction, structure or infrastructure improvement, building, alteration, demolition, excavation, refuse hauling, installation, maintenance, or repair of any public work, including the supplying of materials, supplies, and labor.

**I certify under penalty of perjury that the information contained in this form is true and correct, to the best of my knowledge. (Please include this statement on all pages with an authorized signature.)**

  
 Signature in blue ink  
 Construction Manager  
 Title or Position (Please Print)

Brian D. Hussar

Name (Please Print)

May 28, 2026

Date

**2. Remedy Recommended:**

The 5% Local Business Preference should not be applied to McKim Corporation's bid, which would result in Granite having the lowest responsive bid. See below for calculations.

McKim Corporation bid amount submitted: \$4,780,122.31 with 5% preference: \$4,541,116.19

Granite Construction bid amount submitted: \$4,838,830.20 with 5% preference: \$4,596,888.69

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Construction Manager  
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Brian D. Hussar  
 Name (Please Print)  
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