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Gilroy, California 95020

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BID PROTEST RESPONSE

TO:
CITY OF SALINAS, DPW
200 Lincoln Ave, Salinas, CA 93901

Att: Victor Sanchez, Assistant Engineer

RE: GRANITE CONSTRUCTION BID PROTEST – 2025 PAVEMENT IMPROVEMENT, Project No. 9981

McKim Corporation is in receipt of Granite Constructions bid protest dated May 28th, 2025.

Granite Construction, in summary, is filing its bid protest on the grounds that McKim Corporation is not a "Local Business Enterprise".

McKim Corporation would like the City of Salinas to understand that this is McKim Corporations first time bidding a project for the City of Salinas of this nature. During the bidding process, McKim Corporation did review the Local Business Enterprise requirements, and feels it does meet the qualifications to be considered a Local Business Enterprise. Additionally, when McKim Corporation turns in its original bid documents, a completed Declaration of Local Business Enterprise is included.

As per Addendum #2, issued on May 5th, 2025, Under Section II, "LOCAL ORDINANCES states:
(Please note McKim Corporation noted in blue ink below)

(a) For purposes of this section only and the application of the local preference for public works
ADDENDUM No. 2 Page 1 of 2 2.

(1) Having a current city of Salinas business license;

As a First-time low bidder for the City of Salinas, DPW. McKim Corporation understand that to work in the City of Salinas, contractors must obtain a Business License. McKim Corporation factored in its bid, obtaining a Business License with the City of Salinas, Furthermore, City of Salinas will not execute a contract with its contractor(s) if a Business License is not obtained. Considering that this is McKim Corporation 1st project with the city, a business license was not obtained in the past as there was no need. Again, McKim Corporation will obtain this business license to be compliant with the contract.

(2) Having its principal business office established at an office space and not a personal residence located within the tri-county area (Monterey County, San Benito County, Santa Cruz County) and employing at least one full-time employee within the tri-County area;

Although McKim Corporation headquarters is located in Gilroy, CA. McKim Corporation does have an office in Monterey County (as mentioned above) located at SE Ford and San Carlos, Carmel, CA 93921. Additionally, McKim Corporation employees 4 FULL TIME employees who live in Salinas, CA.

(3) Being current on all city of Salinas tax, fees, assessments, and fines;

McKim Corporation has never been assessed any Taxes, Fees, or Fines therefore deeming itself current on all of the above.

(4) Not subject to enforcement action by the city or in litigation with the city;

McKim Corporation is not subject to enforcement action by the city or in any sort of litigation by the City.

(5) Began doing business within the tri-county (Monterey County, San Benito County, Santa Cruz County) area at least two years prior to the city's inviting bids or quotations for the respective project 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 section, for at least two years immediately prior to the issuance of either a request for competitive bids or request for qualifications from the city;

McKim Corporation began doing work within the Tri-County area on or around 2020.

- MONTEREY SIDEWALKS IMPROVMENTS PHASE 4, CITY OF MONTEREY, DPW. YEAR: 2020
- CLARES STREET RECONSTRUCTION, CITY OF CAPITOLA, DPW. YEAR: 2022
- HOLLSITER ROAD REHABILITATION PROJECT, CITY OF HOLLISTER, DPW. YEAR: 2022
- CAPITOLA ROAD RECONSTRUCTION, CITY OF CAPITOLA, DPW. YEAR: 2022-2023
- 2022 MEASURE D RESURFACING, COUNTY OF SANTA CRUZ, DPW. YEAR: 2022
- FREEDOM BLVD RECONSTRUCTION, CITY OF WATSONVILLE, DPW. YEAR 2023
- AIRPORT BLVD RECONSTRUCITON, CITY OF WATSONVILLE, DPW. YEAR 2021
- 2024-2025 STREET RESURFACING CONTRACT, CITY OF MONTEREY, DPW. YEAR: CURRENT
- GREEN VALLEY ROAD RECONSTRUCTION, CITY OF WATSONVILLE, DPW. YEAR: CURRENT

MORE PROJECTS CAN BE PROVIDED UPON REQUEST.

CONTACT INFORMATION FOR AGENCIES ABOVE CAN BE PROVIDED UPON REQUEST.

(6) Submitting a declaration of local business enterprise on a form provided by the city. (b) In determining the lowest responsible, responsive bidder, bidders who qualify as a local business enterprise shall receive a five-percent preference. If application of the five-percent preference results in a responsible, responsive local business enterprise's bid being at or lower than the nonlocal business enterprise, the contract shall be awarded to the local business enterprise at the local business enterprise's bid amount.

As mentioned above, McKim Corporation is submitting a Declaration of Local Business Enterprise with its original bid documents. The specification and/or ADDENDUM #2 do not specify that the Declaration needs to be submitted before bid time or with the bid documents.

Based off the Addendum #2, it appears that there are some minor discrepancies in the language between "LOCAL PURCHASING PREFERENCE" & "LOCAL ORDINANCES" regarding the "Local Business Enterprise" determination. Nonetheless, McKim Corporation identified itself as a local business enterprise because McKim Corporation affirms that it meets the requirements set forth under chapter 12 as per the Addendum #2 released by the city. McKim would like to reiterate that the specification do not identify that new bidders need to submit the Declaration of Local business prior to the bid, more so, only states that Bidders must submit the declaration.

Additionally, please note that McKim Corporation is a certified DBE (#50630) and SBE (#2013496) contractor certified by VTA and CalTrans. Removing McKim Corporation from the consideration of award of this project can be considered discriminatory. McKim Corporation is more than qualified to perform a project of this stature and can assure that the City of Salinas will be pleased with McKim's performance.

In closing, McKim Corporation believes that GRANITE CONSTRUCTION's bid protest be disqualified from consideration of contract award for this project, and the project be awarded to the lowest responsible and responsive bidder, McKim Corporation. McKim will provide all affected parties with direct financial interest in this protest response a copy of this document.

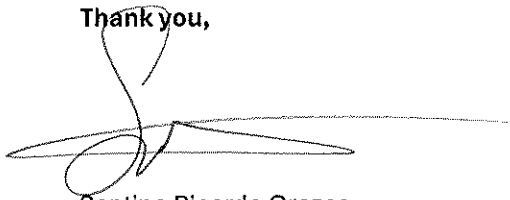
Attached here to:

ADDENDUM #2 – Highlighted Section

McKim's Declaration of Local Business Enterprise

Granite Constructions Bid Protest

Thank you,

A handwritten signature in black ink, appearing to read 'Santino Ricardo Orozco', with a long horizontal line extending to the right.

Santino Ricardo Orozco,

President/Owner

McKim Corporation





City of Salinas

PUBLIC WORKS DEPARTMENT • 200 Lincoln Ave • Salinas, California 93901

(831) 758-7241 • (831) 758-7935 (Fax) • www.ci.salinas.ca.us

ADDENDUM No. 2

DATE: May 5, 2025
TO: Bidders
FROM: Public Works Director, City of Salinas, California
SUBJECT: 2025 Pavement Improvements, CIP No. 9981

Addendum No. 2 answers questions received during the Question-and-Answer period and provides edits and updates to the Bid. This Addendum is available for download from the PlanetBids website under the project's "Documents and Attachment" tab.

- I. Addendum No. 2 answers questions received during the Question-and-Answer period:

Q4 – Can we know what is the CALIFORNIA DEPARTMENT OF TRANSPORTATION PERMIT 0524 NTK 1124? Do we need one?

Answer – The California Department of Transportation permit is an encroachment permit applied for by the City of Salinas and granted by Caltrans. This permit grants permission for traffic control in state right of way on US 101 postmile 89.274 Monterey County. The permit is available for download under the "documents" tab on the PlanetBids website.

- II. The following additions are hereby made to and shall be considered as part of the project plans, and specifications:

1. Contractors' attention is directed to "NOTICE TO BIDDERS", page 9 of the PROJECT SPECIFICATIONS, under "LICENSING REQUIREMENTS" **ADD** the following:

"LOCAL ORDINANCES:

All contractors are required to comply with all the requirements of the City of Salinas local hiring preference Ordinance 2330, Salinas City Code Chapter 12, Article IV, attached hereto, STATEMENT OF GOOD FAITH EFFORT FOR LOCAL HIRE and incorporated herein by reference, with respect to person(s) hired directly by the Contractor and to all persons hired by the Contractor's Subcontractor(s).

In determining the lowest bid for a public works contract that exceed \$5,000.00, a qualified local business shall receive a five percent (5%) preference, per the City's Local Purchasing Preference Ordinance (Sec. 12-28.050 and Sec. 12-28.060).

Sec. 12-28.050. - Application of local purchasing preference—Public works contracts.

Notwithstanding what is otherwise provided in this article and where not otherwise excepted as set forth in this article and consistent with the competitive bidding requirement of Charter section 81, a local preference shall be applied to public works contracts as follows:

- (a) For purposes of this section only and the application of the local preference for public works

- (1) Having a current city of Salinas business license;
 - (2) Having its principal business office established at an office space and not a personal residence located within the tri-county area (Monterey County, San Benito County, Santa Cruz County) and employing at least one full-time employee within the tri-County area;
 - (3) Being current on all city of Salinas tax, 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 tri-county area at least two years prior to the city's inviting bids or quotations for the respective project 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 section, for at least two years immediately prior to the issuance of either a request for competitive bids or request for qualifications from the city;
 - (6) Submitting a declaration of local business enterprise on a form provided by the city.
- (b) In determining the lowest responsible, responsive bidder, bidders who qualify as a local business enterprise shall receive a five-percent preference. If application of the five-percent preference results in a responsible, responsive local business enterprise's bid being at or lower than the non-local business enterprise, the contract shall be awarded to the local business enterprise at the local business enterprise's bid amount.
- (c) If equal bids are submitted by a local business enterprise and a non-local business enterprise after application of the five-percent local preference, the contract shall be awarded to the local business enterprise.(Ord. No. 2552, § 2, 10-21-2014)

Sec. 12-28.060. - Minimum purchase or contract value.

The provisions of this article and the local purchasing preference established pursuant to this article shall be applicable to purchases or contracts in excess of five thousand dollars.

(Ord. No. 2552, § 2, 10-21-2014)

In order to be recognized as a local business, Contractors must submit a Declaration of Local Business Form to the City's Finance Department."

2. Contractors' attention is directed to "PROPOSAL", page 19 of the PROJECT SPECIFICATIONS, **REPLACE** page 19 with attached page.



David Jacobs, P.E., L.S.
Public Works Director

5-5-25

DATE

NOTICE: The Bidder shall SIGN and attach this addendum to his/her Bid. No Bid shall be considered unless this addendum is signed and attached thereto.

BIDDER SIGNATURE (signature in blue ink)

DATE

PROPOSAL
FOR
2025 PAVEMENT IMPROVEMENTS

Project No. 9981

SALINAS, CALIFORNIA

FROM:

NAME OF BIDDER: _____

BUSINESS ADDRESS: _____
(Street Address)

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____

RESIDENCE ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____

Honorable Mayor of City Council
City of Salinas
Salinas, California

Gentlemen/Ladies:

Pursuant to the foregoing Notice to Bidders, the undersigned hereby proposes and binds himself/herself on award by the City Council under this Proposal to execute in accordance with such award, a Contract with necessary bonds of which this Proposal, the Notice to Bidders, and the Plans and the Specifications, shall be a part, to furnish any and all required labor, material, and services for performing and completing the work set forth in the said Specifications and shown on the Plans accompanying them, within the time hereinafter set forth and at the prices named in this Proposal as follows:

☐ By checking this box, the Bidder hereby affirms it meets the requirements set forth under Chapter 12 Article III-A - Local Purchasing Preference. All Local Contractors must have a Declaration of Local Business Enterprise form filed with the City of Salinas Finance Department. Refer to link for requirements <https://www.cityofsalinas.org/Business/Bids-and-RFQs/Bidding-Basics> and [Declaration of Local Business Form](#)



CITY OF SALINAS
DECLARATION OF LOCAL BUSINESS ENTERPRISE

Business Information (All information must be completed)
(Please type or print clearly in ink)

Business Name: MCKIM CORPORATION

Business Address: 8505 CHURCH STREET, GILROY, CA 95020

Principal Business Office Address: N/A, Salinas, California

City of Salinas Business License Number: WILL OBTAIN BUSINESS LICENSE WITH CONTRACT AV

No. of Employees: 40 No. of Full-Time Employees in Salinas 4

Current on all City of Salinas taxes, fees, assessments, and fines? ☐ Yes ☐ No ☒ N/A

Currently subject to enforcement action by the City or in litigation with the City? ☐ Yes ☒ No

Year began doing business within the city of Salinas: 2025

Newly established business (doing business within the city of Salinas less than one year): is the newly established business owned by an individual(s) formerly employed by a local business enterprise? ☐ Yes ☒ No If Yes, for what years? _____

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."

CERTIFICATION

I declare that I am 18 years of age or older and the information contained in the foregoing application is true and correct to the best of my knowledge. Under penalties of perjury, I certify that all the information provided herein is correct and that the business enterprise I am representing meets all of the criteria set forth in Salinas Municipal Code section 12-28.020, subsection (d) for a "local business enterprise." I declare that I am authorized to submit this Declaration for and on behalf of myself and the organization described above.

Signature Santino Orozco

Date 5/22/2025

Printed Name: SANTINO OROZCO, PRESIDENT