



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: SEPTEMBER 19, 2017

DEPARTMENT: PUBLIC WORKS DEPARTMENT

FROM: GARY PETERSEN, C.A.E., PUBLIC WORKS DIRECTOR

BY: PHAVANA ARAMKUL, JUNIOR ENGINEER

TITLE: E. LAUREL DR. AND ST. EDWARDS DR. TRAFFIC SIGNAL
INSTALLATION AND INTERSECTION IMPROVEMENTS;

RECOMMENDED MOTION:

- 1) A motion to reject the Bid protests submitted by The Don Chapin Company Inc. regarding Monterey Peninsula Engineering bid submittal; and
- 2) A motion to approve a Resolution awarding contract to Monterey Peninsula Engineering for the East Laurel Drive and Saint Edwards Drive Traffic Signal Installation and Intersection Improvements, Project No. 9268 in the amount of \$872,029.50; and
- 3) A motion to approve a \$120,000 transfer from Measure X Transportation Safety (CIP No. 9220) to the East Laurel Drive and Saint Edwards Drive Traffic Signal and Intersection Improvement account (CIP No. 9268);

RECOMMENDATION:

Staff recommends that the City Council; 1) reject The Don Chapin Company Inc. Bid Protest, 2) approve a resolution awarding the contract to Monterey Peninsula Engineering (MPE), and 3) approve a transfer of \$120,000 of Measure X funds CIP 9220 to the E. Laurel and St. Edwards Traffic Signal Project CIP 9268.

EXECUTIVE SUMMARY:

The City has completed plans and specifications to install a traffic signal, as an integral part of the East Laurel Pedestrian Sidewalk and lighting improvements at the intersection of East Laurel Drive and St. Edwards Drive, to allow safe pedestrian crossing at East Laurel Drive, and safe left turn movements at this intersection. The City publicly opened and examined Project Bids on August 22, 2017, with the lowest bidder being MPE with a low bid of \$872,029.50. City staff recommends that Council approve the transfer of an additional \$120,000 of “Measure X Transportation Safety funds” from the E. Laurel sidewalk and lighting project to the traffic signal project to cover the \$109,759 shortfall so that MPE may begin construction by late-October to early-November 2017.

BACKGROUND:

The East Laurel Dr. and St. Edwards Dr. Traffic Signal & Intersection Improvements Project No. 9268, was designed by the Wallace Group and includes the installation of a new traffic signal; modifications to an existing median island and landscape on East Laurel Drive; installation of a continuous flashing beacon for advance warning of traffic signal; installation of a new MST bus shelter; removal of concrete sidewalk and/or pedestrian access ramp; installation of new concrete sidewalk; installation of ADA-compliant pedestrian access ramps; removal and replacement of concrete curb and gutter; installation of new pedestrian light poles; a new traffic signal controller cabinet; new traffic signal poles, mast arm, luminaire, street light pullbox, and street light conduit; removal of an existing catch basin, and installation of new catch basin and storm drain lateral; installation of a new eccentric flat-top manhole; installation of new traffic sign(s) and post; installation of new traffic striping and raised pavement markers; traffic control during construction; and installation and maintenance of storm water source control measures throughout project duration.

The Project is located at the intersection of East Laurel Drive and Saint Edwards Drive. This intersection is the City's highest priority project due to the cause of deaths and accidents this year. East Laurel Drive is a four-lane, 45-MPH, arterial roadway with bike lanes, no parking on either side, median islands, and one bus stop on each side of the road. Saint Edwards Drive is a two-lane, 25 MPH, residential roadway with parking on both sides.

The City completed a Pedestrian Enhancement Study in December 2016, which identified the need to make improvements to the East Laurel Drive corridor to improve safety for the general public. One of the items listed as crucial was to provide a traffic signal at the intersection of East Laurel Drive and Saint Edwards Drive to allow pedestrians and vehicles to safely cross East Laurel Drive.

On July 21, 2017, the City began to procure bids for the project. And on August 22, 2017, three bids received were publicly opened and examined with the following results (see Attachment A - Bid Tabulation sheet for details):

BID RESULTS:

Contractor	Total Base Bid
Monterey Peninsula Engineering	\$872,029.50
The Don Chapin Company Inc.	\$973,111.00
Granite Rock Company	\$1,114,474.00
Engineer's Estimate	\$660,000.00

The lowest bidder is MPE for a total \$872,029.50, which is 36% above the engineer's estimate. The low bid was \$212,029.50 over the Engineer's Estimate, which upon review can be attributed to two primary issues: 1) signal hardware installation and, 2) a small job with smaller construction quantities. To expedite the construction schedule the City provided signal hardware rather than relying on the contractor to order the materials and waiting for those items to be available. Additionally, in this high-demand construction environment the smaller quantities of concrete, asphalt, and excavation resulted in higher costs.

On August 22, 2017, the City received a bid protest ^[1] from The Don Chapin Company Inc. (See Attachment B “Bid-Protest”) regarding MPE’s bid on the grounds that MPE failed to register on the PlanetBIDs Website ^[2], and that their listed sub-contractor ^[3] was not bidding on the project. Failure to register on the PlanetBID website and failure to list sub-contractor at bid time can disqualify a contractor from the Bid as being non-responsive.

Bidder Disqualification for Nonresponsive Bids

In this instance, and in the normal course of procedure, Public Works staff notifies bidders failing to meet the mandates of the bid specification of their disqualifications, of which there were none for this bid. Staff has queued this hearing to afford bidders the opportunity to publicly address the bid protest. City Public Works staff notified all contractors who bid on the project that a public hearing respecting the Bid Protest will be held at the September 19, 2017, council meeting via letters dated September 6, and September 8, 2017 (see Attachment C – Notice to Bidders of Bid Protest).

Legal Considerations Regarding the Bid Protests

Salinas City Code section 12-39 ^[4] provides the bases upon which a contractor may file a protest and also provides the procedures by which the protest is considered.

The Don Chapin Company’s protest with respect to MPE is an invalid protest, and should be rejected given that:

[1] SEC. 12-39.-BID PROTEST

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. (Ord. No. 2330 (NCS), § 1.)

[2] NOTICE TO BIDDERS – Pg. 9, 2nd paragraph, of the City of Salinas project specification.
If bidder is not registered on the PlanetBIDs web site when submitting a bid, they shall be disqualified.

[3] BIDDER'S STATEMENT OF SUBCONTRACTORS - Part I. Pg. 26, Instructions state.
No Subcontractors, other than those listed hereon, shall be allowed to perform work under this Contract. Substituting a Subcontractor in place of a Subcontractor listed in the original Bid is prohibited, violators, may at the Agency’s discretion, result in cancellation of the Bid.

[4] SEC. 12-39.-BID PROTEST

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. (Ord. No. 2330 (NCS), § 1.)

- 1) MPE had followed the project bid specifications guideline for bid submittal. MPE did register with PlanetBIDs as a vendor on two separate occasions. Once as a Private Partnership and once as Other Corporation. A Vendor need only register once to be compliant for future bids, as required by the bid specifications. Under Section 12-39 ^[4], The Don Chapin's protest can only be sustained if the City Council finds that evidence that award of the bid to MPE would violate the City Code or other applicable law.
- 2) MPE sub-contractor submitted the appropriate notarized documents required by the Statement of Sub-Contractors Part-II.
- 3) Don Chapin's Bid Protest also violates Section 3 (f) ^[5] of the project specifications, by not filing with the City Clerk office ^[4], and attaching a \$1,000 certified check along with the Bid Protest. The City Council's concurrence with Staff's recommendation and its award of the proposed contract to MPE as identified in the recommendation would not violate the City Code or other applicable law. Don Chapin's protest should, therefore, be rejected.

CEQA CONSIDERATION:

Categorical Exemptions. The City of Salinas has determined that the project is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1 (c), and Section 15302 (c), because the project proposes a modification to an existing facility at the intersection of East Laurel Dr. and St. Edwards Dr., adjacent median island, sidewalks, and street and pedestrian lighting, of which it involves negligible or no expansion of an existing use.

STRATEGIC PLAN INITIATIVE:

This item relates to the Council's Strategic Goal of "Excellent Infrastructure," and enhances "Quality of Life." by allowing pedestrian and vehicles to safely cross East Laurel Drive to access bus stops, local parks and medical facilities within the neighborhood.

FISCAL AND SUSTAINABILITY IMPACT:

The current budget for this project includes \$220,000 from Measure G funds and \$1,050,000 from Measure X funds, for a total budget of \$1,270,000. To date \$255,883 has been spent and encumbered on coordination, design, and City-purchased traffic signal equipment to meet construction schedule, leaving an unencumbered balance of \$1,014,117. Based on the lowest bid received, the estimated total construction cost is \$1,123,876 including inspection, contingencies, and administration. Below is a table summarizing the projected cost:

^[5] SECTION 3 - Award and Execution of Contract, Pg. 74, of the City of Salinas project specification.

(f) The protestor shall also submit a non-refundable fee of \$1,000.00 per protest via certified check made payable to the City of Salinas to reimburse its costs in reviewing and investigating the bid protest. Any protest submitted without the fee shall be returned without further action by the City.

Bid Amount	\$872,029.50
Inspection (10%)	\$87,203
Contingencies (10%)	\$87,203
Administration \$50K max	\$50,000
Consultant Construction Support	\$10,000
Engineering support (2%)	\$17,441
Total Estimated Project Costs	\$1,123,876

Based on the lowest bid received, there is a shortfall of \$109,759. Staff proposes to fund the shortfall by requesting that Council authorize the transfer of \$120,000 from the Measure X Transportation Safety, CIP No. 9220 funds to the East Laurel Drive and Saint Edwards Drive Traffic Signal and Intersection Improvement account CIP No. 9268, and to proceed with the award of contract to MPE.

ATTACHMENTS:

Resolution

Bid Tabulation Sheet --Attachment A

Bid Protest - -Attachment B

Notice to Bidder of Bid Protest -Attachment C

Letter to The Don Chapin Company—Attachment D