

CITY COUNCIL REGULAR SESSION

Motion to reject the bid protest of Interwest Construction and award Bid No. 22002 for the 98th Avenue SE and SE 11th Street Slope Stabilization Project (CIP Plan Nos. PW-M-19 & W-16) to Laser Underground & Earthworks as the lowest responsible and responsive bidder, contingent on receiving concurrence from the Washington State Department of Transportation (WSDOT), in the amount of \$2,058,766.00, plus all applicable taxes.

Andrew Singelakis, Transportation Director, 452-6468

Maher Welaye, Assistant Director, 452-4879

Chris Masek, Design Engineering Manager, 452-4619

Transportation Department

EXECUTIVE SUMMARY

This Motion will reject the bid protest and award Bid No. 22002 to Laser Underground & Earthworks for the 98th Avenue SE and SE 11th Street Slope Stabilization Project.

RECOMMENDATION

Move to reject the bid protest of Interwest Construction and award Bid No. 22002 for the 98th Avenue SE and SE 11th Street Slope Stabilization Project to Laser Underground & Earthworks contingent on receiving concurrence from WSDOT.

BACKGROUND/ANALYSIS

98th Avenue SE between SE 7th Street and SE 15th Street has a long history of slope movement that goes back to the early 1990's. The City previously installed two walls on 98th Avenue NE, north and south of the intersection of SE 11th Street to address past slope movement.

Over a period of heavy rainfall between January 24 and February 7, 2020, approximately seven inches of rain was recorded in the Bellevue vicinity. This rain event resulted in settlement and movement of the adjacent slope that holds up 98th Avenue SE at the intersection of SE 11th Street. The slope settlement and movement damaged the shoulder of SE 11th Street causing the gravel and curb to separate and undermine from the roadway. An interim repair was made to the shoulder by excavating the loose material and replacing it with compacted gravel. This allowed SE 11th Street to be reopened fully. The interim repair work was completed in April 2020 at a cost of approximately \$35,000.

On September 28, 2020, Council adopted Ordinance No. 6527 which authorized the execution of a Federal funding agreement with WSDOT for acceptance of up to \$1,352,998 in federal Emergency Relief funding from the Federal Highway Administration (FHWA) to support the design and construction of a permanent repair of 98th Avenue SE at the intersection with SE 11th Street (CIP Plan No. PW-M-19).

On November 16, 2020, Council adopted Ordinance No. 6545 which authorized the execution of a proposed Federal funding agreement with the Washington State Military Department (WSMD) and the Federal Emergency Management Agency (FEMA) for acceptance of up to \$320,000 in grant funding to

address continued roadway repair extending northwest on SE 11th Street, but outside of the federally classified roadway network. FEMA's final approval of this agreement and funding level remains pending completion of FEMA review during the construction phase.

On March 22, 2021, Council Adopted Resolution No.9908 authorizing the execution of a Professional Services Agreement with H.W. Lochner Inc. to provide final design services for the 98th Avenue SE and SE 11th Street Slope Stabilization Project.

This project will construct a new wall system to stabilize the existing slope at the intersection of 98th Avenue SE and SE 11th Street in order to prevent future damage to the roadway. The project will also address drainage issues on the site which contribute to the movement of the slope. This project will also include pavement overlay, water main replacement, striping, landscaping, and temporary irrigation.

Following verification of bid submittals, the bids received were as follows:

Laser Underground & Earthworks	\$2,058,766.00
Active Construction, Inc.	\$2,110,110.00
Interwest Construction, Inc.	\$2,146,335.00
C A Carey Corporation	\$2,255,824.00
Titan Earthwork	\$2,478,037.25
Olson Brothers Excavating, Inc.	\$2,544,344.50
Engineer's Estimate	\$1,936,448.50

On September 23, 2022, staff received a formal bid protest from Interwest Construction contending that the first and second low bids (Laser Underground & Earthworks and Active Construction) did not properly fill out the Disadvantaged Business Enterprise (DBE) Utilization Certification Form and did not meet the DBE requirements specified in the Bid Documents.

After a thorough review of the contractor's bid, qualifications, background, references, and experience , staff believes that the bid from Laser Underground & Earthworks is responsible, meets the requirements of the project specifications, and that they are capable of performing the work per the plans and specifications. Staff recommends awarding the contract to Laser Underground and Earthworks as the lowest responsible and responsive bidder. Concurrence from the Washington State Department of Transportation (WSDOT) is required prior to award of this contract. WSDOT has indicated they cannot provide such concurrence until the bid protest is formally rejected by the City. As a result, this motion to award is contingent upon receiving concurrence from WSDOT to award the contract to Laser Underground & Earthworks.

To the best of our knowledge and professional judgment, all factors that typically contribute to construction expenses have been accounted for in the Plans, Specifications and Estimates. Based on our experience, projects of this type may result in some field changes. All claims are rigorously reviewed and only those that are clearly necessary to accomplish the intent of the contract, but have not previously been provided for, will be paid.

POLICY & FISCAL IMPACTS

Policy Impact

Comprehensive Plan:

- Policy TR-39. Design, maintain, and protect the transportation system to be resilient to disaster.
- Policy TR-53. Maintain and enhance safety for all users of the roadway network.
- TR-131 directs that the City, “Seek state and federal funds for transportation capital, maintenance and operations.”
- TR-136 directs that the City, “Support joint projects, including the contribution of City matching funds, with adjoining cities, King County, the transit providers, or the state, where such partnerships help establish or accelerate projects beneficial to the City.”

Sound management practice—Major Maintenance Program:

- This project responds to one of the City’s primary responsibilities for public safety and minimizes the City’s liability by preserving transportation infrastructure.

Fiscal Impact

Awarding this bid will obligate the City to \$2,058,766.00, plus all applicable taxes, for the 98th Avenue SE and SE 11th Street Slope Stabilization Project (CIP Plan Nos. PW-M-19 & W-16). This amount is approximately 6 percent over the Engineer’s Estimate. Sufficient funding exists in the 2021-2027 General Capital Investment Program (CIP) Major Maintenance Program (CIP Plan No. PW-M-19) and Small Diameter Water Main Replacement (CIP Plan No. W-16) plans to fully fund this contract as follows:

CIP Plan No.	Description	Amount
PW-M-19	Major Maintenance Program	\$1,932,196.00
W-16	Small Diameter Water Main Replacement	126,570.00
Total Funding		<u>\$2,058,766.00</u>

OPTIONS

1. Reject the bid protest of Interwest Construction and award Bid No. 22002 for the 98th Avenue SE and SE 11th Street Slope Stabilization Project (CIP Plan Nos. PW-M-19 & W-16) to Laser Underground & Earthworks as the lowest responsible and responsive bidder, contingent on receiving concurrence from the Washington State Department of Transportation (WSDOT), in the amount of \$2,058,766.00, plus all applicable taxes.
2. Reject all bids and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Vicinity Map
- B. Project Description (PW-M-19)
- C. Project Description (W-16)

AVAILABLE IN COUNCIL LIBRARY

Final Design Plans