CITY COUNCIL AGENDA MEMORANDUM

SUBJECT:

Motion to reject the bid protest from Kamins Construction Inc. and award Bid No. 15065, NE 24th Street and Bellevue Way NE Sidewalk (CIP Plan Nos. CD-22, PW-M-19, PW-W/B-56) to Westwater Construction Co., as the lowest responsible and responsive bidder, in the amount of \$225,655.00.

FISCAL IMPACT:

Awarding this bid will obligate the City to \$225,655.00 to replace a segment of an existing sidewalk adjacent to the traveled way with a new sidewalk with a landscape buffer, along the west side of Bellevue Way NE just south of NE 24th Street (CD-22); replace deteriorated wood fence along this stretch (PW-M-19); and, construct a new sidewalk on the south side of NE 24th Street, between 103rd Avenue NE and Bellevue Way NE (PW-W/B-56). This amount is approximately 25% under the Engineer's Estimate. This amount is funded through the following programs. Sufficient funds exist within these programs to fully fund the construction contract:

CD-22	Enhanced Right of Way and Urban Boulevards (ERUB)	\$104,935.00
PW-M-19	Major Maintenance Program	\$19,740.00
PW-W/B-56	Pedestrian and Bicycle Access Improvements	\$100,980.00
	Total Funding	\$225,655.00

STAFF CONTACT:

Dave Berg, Director, 452-6468 Ron Kessack, Assistant Director, 452-4631 Mike Mattar, Design Division Manager, 452-4318 Gregory Lucas, Project Manager, 452-4550 Transportation Department

Tom Kuykendall, Street Tree Program Supervisor, 452-7924 *Parks and Community Services*

Patti Wilma, Urban Design and Project Development Manager, PCD, 452-4114 *Planning and Community Development*

POLICY CONSIDERATION:

Comprehensive Plan:

- Policy TR-24. Incorporate pedestrian and bicycle facility improvements into roadway projects in accordance with the Pedestrian and Bicycle Transportation Plan.
- Policy TR-27. Design, implement, and maintain transportation system improvements and deliver transportation services and programs in accordance with the Americans with Disabilities Act (ADA).
- Policy TR-51. Provide sufficient arterial rights-of-way to provide space for street trees and landscaping, and to accommodate pedestrian and bicycle facilities, while considering neighborhood character and context.
- Policy TR-52. Design arterials and streets to fit the character of the areas through which they pass.

- Policy TR-53. Maintain and enhance safety for all users of the roadway network.
- Policy TR-103. Promote and facilitate walking and bicycling.
- Policy TR-105. Implement the Pedestrian and Bicycle Transportation Plan and prioritize
 projects that: 1. Address safety issues; 2. Provide access to activity centers; 3. Provide
 access to the transit and school bus systems; 4. Complete and connect planned pedestrian or
 bicycle facilities; 5. Develop primary north-south and east-west bicycle routes through the
 city; 6. Improve multimodal level of service along travel corridors; and 7. Serve residents
 who have special accessibility needs.
- Policy TR-106. Construct, maintain and repair pedestrian and bicycle facilities in accordance with current standards.
- Policy UD-4. Create a safe, engaging and attractive pedestrian environment throughout the city using appropriate urban design features.
- Policy UD-67. Design streets to be visually appealing connections between different parts of the city for motorists, bicyclists and pedestrians.
- Policy UD-69. Design key city boulevards to be distinctive from other streets and to reinforce the image of Bellevue as a "City in a Park." (See Map UD-1)

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.

BACKGROUND:

On December 1, 2014 Council adopted the 2015-2021 CIP Plan which includes the Enhanced Right of Way and Urban Boulevards (CIP Plan No. CD-22), Major Maintenance (CIP Plan No. PW-M-19) and the Pedestrian and Bicycle Access Improvements (CIP Plan No. PW-W/B-56) programs.

The Bellevue Way NE sidewalk construction enhances safety to pedestrians by providing separation from vehicles traveling south on Bellevue Way NE via a four foot wide landscaped buffer, which connects to an existing landscape buffer to the south. This project also replaces an existing deteriorated fence, completing the fence replacement in the Bellevue Way NE corridor, which was started last year.

The NE 24th Street sidewalk construction provides pedestrians with a new sidewalk along the south side of NE 24th Street, between 103rd Avenue NE and Bellevue Way NE. This sidewalk implements a priority project identified in the 2009 City of Bellevue Pedestrian and Bicycle Transportation Plan.

Staff from the Transportation, Parks, and Planning & Community Development Departments collaborated to combine the various needs and enhancements in the area into one construction contract to maximize efficiency and cost effectiveness. This project was designed in house, which also reduces the design cost significantly.

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

Westwater Construction Co.	\$225,655.00
Kamins Construction, Inc.	226,947.32
NPM Construction Co.	235,971.00
Trinity Contractors, Inc.	236,181.00
Agostino Construction, Inc.	250,481.00

Global Contractors, LLC	250,935.00
Fenix Earthworks, LLC	262,250.00
RW Scott Construction Co.	273,940.00
Oceanside Construction, Inc.	276,317.65
Pivetta Brothers Construction, Inc.	276,810.00
Welwest Construction, Inc.	280,730.00
3 Kings Environmental, Inc.	348,676.00

Engineer's Estimate \$301,920.00

Sealed bids were opened on December 17, 2015, and the initial apparent low bidder was Kamins Construction, Inc. While reviewing all bids for accuracy and completeness, staff discovered that Westwater Construction Co. had a discrepancy within one of the bid items, between the price per unit and the extended amount of that bid item. After correcting the bid discrepancy, it was determined that Westwater Construction Co. was the actual lowest bid. Staff informed Westwater Construction Co. of their bid discrepancy, and they agreed to honor their corrected Fixed Awarded Contract Price, and not claim relief from the responsibilities of award.

On December 21, 2015, staff received a formal bid protest from Kamins Construction Inc. The protest contended that the bid from Westwater Construction Co. should be considered nonresponsive, because of the bid discrepancy. Staff from Transportation, City Attorney's Office, and Finance's Contracting Services reviewed the information noted in the bid protest and determined that the procedures followed by the City to correct the bid submitted by Westwater Construction Co. met the procedures as listed in the bid documents and Washington State Law. Staff informed Kamins Construction Inc. that, after thorough review, Westwater Construction Co. was determined to be the lowest bid, and that staff plans to recommend to Council that it award the bid to Westwater Construction Company at its January 4, 2016 Council meeting.

Staff recommends to reject the bid protest submitted by Kamins Construction, Inc. and award the bid to Westwater Construction Co.; they are qualified to perform the work, and willing to do the work for the corrected Fixed Awarded Contract Price.

To the best of our knowledge and professional judgment, all factors that normally contribute to construction expenses have been accounted for in the Plans, Specifications and Estimate. 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 somehow not been provided for, will be paid.

EFFECTIVE DATE:

If approved, this Motion becomes effective immediately upon Council adoption.

OPTIONS:

- 1. Reject the bid protest from Kamins Construction Inc. and award Bid No. 15065, NE 24th Street and Bellevue Way NE Sidewalk (CIP Plan Nos. CD-22, PW-M-19, PW-W/B-56) to Westwater Construction Co., as the lowest responsible and responsive bidder, in the amount of \$225,655.00; or
- 2. Award Bid No. 15065 to another bidder if low bidder is rejected; or
- 3 Reject all bids and provide alternative direction to staff.

RECOMMENDATION:

Option 1.

MOTION:

Move to reject the bid protest from Kamins Construction Inc. and award Bid No. 15065, NE 24th Street and Bellevue Way NE Sidewalk (CIP Plan Nos. CD-22, PW-M-19, PW-W/B-56) to Westwater Construction Co., as the lowest responsible and responsive bidder, in the amount of \$225,655.00.

ATTACHMENTS:

Vicinity Map
CIP Project Descriptions (CD-22, PW-M-19, PW-W/B-56)

AVAILABLE IN COUNCIL DOCUMENT LIBRARY:

Construction Contract Documents