

Meeting Date: 11/25/2014

Report Type: Review

Report ID: 2014-00860

Title: (Agreement/Contract for Review and Information) Contract: Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700)

Location: District 5

Recommendation: Review a report 1) approving the Plans and Specifications for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700); 2) (a) adopting the findings of fact issued by the Hearing examiner on the bid protest filed by C.C. Meyers, (b) adopting the Hearing Examiner's recommended determination to deny the bid protest and find the low bid submitted by Viking Construction to be responsive, and (c) denying the bid protest from C. C. Meyers; 3) awarding the contract to Viking Construction Company, Inc. as the lowest responsive and responsible bidder, for an amount not to exceed \$5,836,463; 4) authorizing the City Manager to execute a construction contract with Viking Construction for an amount not to exceed \$5,836,463 for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700); 5) authorizing the City Manager to execute a Professional Services Agreement with Psomas to provide construction management services for an amount not to exceed \$915,855; 6) authorizing the City Manager to execute Supplemental Agreement No. 13 with Drake Haglan and Associates in an amount not to exceed \$141,311; 7) ratifying Supplemental Agreement No. 12 to City Agreement No. 2010-0789 with Drake Haglan and Associates; 8) resetting the City Manager's authority to issue Supplemental Agreements for City Agreement No. 2010-0789; 9) transferring \$109,175 (Fund 2001) to the project from the Pedestrian Improvements Program (T15075200) to the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700); and 10) transferring \$740,825 (Fund 2025) from the Pedestrian Improvements Program (T15100400) to the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).

Contact: Ofelia Avalos, Associate Civil Engineer, (916) 808-5515; Nicholas Theocharides, Engineering Services Manager, (916) 808-5065, Department of Public Works

Presenter: None

Department: Public Works Department

Division: Engineering Services Admin

Dept ID: 15001111

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Resolution
- 4-Exhibit A (Location Map)

City Attorney Review

Approved as to Form

Gerald Hicks

11/17/2014 10:26:27 AM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 11/6/2014 4:23:34 PM

Description/Analysis

Issue: The Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) will construct a new bicycle/pedestrian bridge crossing that will link the Curtis Park Village neighborhood with Sacramento City College and Regional Transit's Light Rail Station.

The Project (T15065700) was advertised and bids were received on July 30, 2014. On October 15, 2014, the City issued a notice of intent to award the contract to the low bidder, Viking Construction. On October 22, 2014, C.C. Myers submitted a bid protest arguing that the bids of Viking and MCM Construction (the second low bidder), were non-responsive for failure to list a subcontractor with a C-10 license in order to undertake specified work as part of the contract. On November, 5, 2014, the bid protest was heard by hearing examiner Kamardeep Athwal. On November 13, 2014, the hearing examiner issued his decision recommending that C.C. Myers bid protest be denied. Pursuant to City Code section 3.60.540, staff recommends that the City Council adopt the hearing examiner's findings of fact and recommended determination denying the bid protest of C.C. Myers. City Council approval is necessary to move forward with awarding the construction contract.

Approval of a Professional Services Agreement with Psomas will provide construction management, inspection, materials testing, and stakeholder outreach during construction.

Approval of Supplemental Agreement No. 13 with Drake Haglan and Associates is necessary to provide construction support.

Policy Considerations: The actions requested support the City's General Plan goals of improving the transportation system, expanding public safety, achieving sustainability through reduced dependence on the private automobile, and enhancing livability and economic vitality.

Economic Impacts: This new infrastructure is expected to create 23.34 total jobs (13.42 direct jobs and 9.92 jobs through indirect and induced activities) and create \$3,603,577 in total economic output (\$2,271,340 of direct output and another \$1,332,237 of output through and induced activities).

The indicated economic impacts are estimates calculated using a calculation tool developed by the Center for Strategic Economic Research (CSER). CSER utilized the IMPLAN input-output model (2009 coefficients) to qualify the economic impacts of a hypothetical \$1 million of spending in various construction categories within the City of Sacramento in an average one-year period. Actual impacts could differ significantly from the estimates and neither the city of Sacramento nor CSER shall be held responsible for consequences resulting from such differences.

Environmental Considerations:

California Environmental Quality Act (CEQA)/ National Environmental Policy Act (NEPA): The City adopted a Mitigated Negative Declaration (MND) in conformance with CEQA on December 8, 2009. On June 12, 2011, an amendment to the MND was adopted to incorporate the construction of a small section of sidewalk which will enhance pedestrian access to/from the bridge structure, and also to incorporate the relocation of a 21KV SMUD.

The NEPA was determined to be a Categorical Exemption and was approved on May 26, 2010, and revalidated June 24, 2014.

Sustainability Considerations: This project is consistent with Sustainability Master Plan goals to enhance the pedestrian facilities in the public right-of-way and to encourage bicycle and pedestrian trips.

Commission/Committee Action: No Commission or Committee activity has taken place or is required.

Rationale for Recommendation: Viking Construction Company, Inc. is the lowest responsive and responsible bidder. Approval of a Professional Services Agreement with Psomas and approval of Supplemental Agreement No. 13 with Drake Haglan and Associates will enable the City to begin construction.

Financial Considerations: The estimated total project cost for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) is \$11,862,868. To date, \$3,973,382 has been expended on environmental, design, and construction of the bridge foundation and improving pedestrian access at Sacramento City College. Staff anticipates an additional \$7,889,485 will be needed to complete construction of the bridge.

As of November 3, 2014, the project has an unspent balance of \$7,039,485. Transferring \$109,175 (Fund 2001) from the Pedestrian Improvements Program (T15075200) and \$740,825 (Fund 2025) from the Pedestrian Improvements Program (T15100400) will bring the total available funds to \$7,889,485 which is sufficient to execute a construction contract with Viking Construction Company, Inc. for an amount not to exceed \$5,836,463, to execute an agreement with Psomas in an amount not to exceed \$915,855, to execute Supplemental Agreement No. 13 with Drake Haglan and Associates in the amount of \$141,311, and to cover remaining staff costs for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).

As of November 3, 2014, the unobligated balance in the Pedestrian Improvements Program (T15075200) is \$109,175, which is sufficient to complete the transfer of \$109,175 (Fund 2001) to the Sacramento City College Pedestrian/ Bicycle Overcrossing Project (T15065700).

As of November 3, 2014, the unobligated balance in the Pedestrian Improvements Program (T15100400) is \$1,618,531, which is sufficient to complete the transfer of

\$740,825 (Fund 2025) to the Sacramento City College Pedestrian/ Bicycle Overcrossing Project (T15065700).

There are no General Funds planned or allocated to this project.

Local Business Enterprise (LBE): The Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) has federal construction funding and requires conformance with Disadvantaged Business Enterprise (DBE) requirements. Therefore, the City's LBE requirements are held in abeyance. The DBE goal is 7%. Viking Construction Company, Inc. pledged 7.1% and met the project's Good Faith Effort requirements.

Attachment 1

Background:

The Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) will construct a new bicycle/pedestrian bridge crossing that will link the Curtis Park Village neighborhood with Sacramento City College and Regional Transit's Light Rail Station.

Project Funding

In 2013, the project applied for and was awarded funding for construction of the project by the Sacramento Area Council of Governments (SACOG) as part of the biennial regional funding round. SACOG programmed \$6.9 million in Federal Transportation Enhancement Activities (TEA) funds in the State Transportation Improvement Program (STIP). Funding in the STIP is subject to the timely use of funds provisions enacted by Senate Bill 45 and subsequent guidelines and state procedures approved by the California Transportation Commission (CTC). One requirement is that the local agency award the construction contract within six months of the construction fund allocation.

Construction funding for the project was allocated by the CTC in August 2013, meaning the City was therefore required to award the contract by February 2014. As soon as the City received federal authorization to proceed, the City advertised the project (as described below). When the bid exceeded available funding, the City moved to reject all bids, requested a time extension from the CTC to award the contract, amended the plans, and re-advertised.

The CTC granted an eight-month time extension at its January 2014 meeting, extending the award date to the end of October 2014. CTC staff granted the City another extension to allow the City to go through a bid protesting hearing. The City is expected to award a contract by December 10, 2014, so that the funds will not be de-allocated and returned to the statewide pool for future allocation.

Project Advertising and Bids

The project was advertised for the first time and bids were received on November 6, 2013. There was one sole bid from Viking Construction in the amount of \$8,896,717 which was significantly higher than the Engineer's estimate of \$6 million and the bid was rejected by the City Council on February 11, 2014. After reviewing the unit bid prices from the sole bid and the construction plans and specifications, staff identified several cost reduction options and revised the bid documents to decrease the construction cost. Several aesthetic features were removed including the colored and stamped concrete on the deck and the stair's lighted stainless steel hand rails. Also, the plans were revised to include less expensive lights and stainless steel wire mesh fencing on the deck. A provision that restricted the contractor's construction operations was also removed from the contract. Prior to advertising for bids, the Caltrans bid advertisement website was checked to ensure bid opening did not coincide with other large and similar projects and additional outreach with potential bidders was completed to increase bidding participation.

The project was re-advertised and bids were received on April 9, 2014. The lowest bid exceeded the available funds for the project by approximately \$1,000,000. Staff reviewed all aspects of the design, performed additional value engineering and identified elements which could be modified or deleted while still providing a completed project with the form, aesthetics and functionality originally envisioned for the bridge. The bids were rejected by the City Council on June 10, 2014 and the Plans were modified.

The project was advertised for the third time and bids were received on July 30, 2014. The bids are summarized below:

Contractor	Bid Amount	DBE Participation (Goal 7 %)	Good Faith Effort(Y or N)
Viking Construction	\$5,836,463.65	7.1%	Y
MCM Construction	\$5,872,424.50	7.0%	Y
C.C. Myers	\$5,995,000.00	4.5%	Y
Disney Construction	\$6,586,464.70	Not analyzed	
RGW Construction	\$7,123,553.55	Not analyzed	

The engineer's construction estimate was \$5,800,000.

Upon Notice of Intent to Award on October 15, 2014, C.C. Myers filed a bid protest on the grounds that Viking Construction's bid was non-responsive because Viking failed to list a licensed C-10 Electrical Contractor to complete Bid Item No. 83 – Overhead Contact System (OCS).

Per the City Code, a bid protest hearing was held on November 5, 2014 before a hearing examiner from McGeorge School of Law. Upon review of the information provided by staff and the contractors, the hearing officer recommended denying the bid protest of C.C. Myers.

Under Section 3.60.540 of the City Code, the City Council may in its discretion take any of the following actions prior to taking final action on the bid protest:

A. Adopt the findings of fact issued by the hearing examiner, without hearing factual evidence from any party; or

B. Review the recording of the hearing, or a transcript thereof, prior to adopting or rejecting, in whole or in part, the findings of fact issued by the hearing examiner, without hearing factual evidence from any party; or

C. In addition to or in lieu of reviewing the recording of the hearing, or a transcript thereof, hear factual evidence from any party prior to adopting or rejecting, in whole or in part, the findings of fact issued by the hearing examiner.

In taking final action on the bid protest, the City Council may take any action that is authorized by law, including adoption of the Hearing Examiner's recommended determination, or adoption of a determination that is different from that recommended by the Hearing Examiner.

City staff concurs with the Hearing Examiner's findings and recommendation. Staff recommends that the City Council adopt the Hearing Examiner's decision which is included as an Attachment and deny the bid protest.

Construction Management

Construction is expected to begin in December 2014 and project completion is scheduled for January 2016. The consultant selection process for construction management services has been completed. A Request for Proposals (RFP) for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) was advertised and four firms responded. The consultant selection panel was composed of representatives from the City and Caltrans. The panel reviewed and rated the written proposals and conducted an interview with the top two rated firms and Psomas ranked highest. Psomas has assembled a highly qualified and experienced team to perform construction management services needed for the project.

The Professional Services Agreement with Psomas will be providing construction management, inspection, material testing, and labor compliance to ensure conformance with all federal and local requirements.

Preliminary Engineering and Design

On May 15, 2012, Supplemental Agreements No. 1 and No. 2 with Drake Haglan and Associates were ratified by City Council.

On December 11, 2012, Supplemental Agreements No. 3 thru No. 7 with Drake Haglan and Associates were ratified by City Council.

On June 24, 2014, Supplemental Agreements No. 8 thru No. 11 with Drake Haglan and Associates were ratified by City Council.

Supplemental Agreement No. 12 in the amount of \$10,000 compensated Drake Haglan and Associates' civil sub-consultant to revise the Plans and Specifications due to the stair modifications and the design needs to take into account the improvements by the Curtis Park Village development.

Supplemental Agreement No. 13 in the amount of \$141,311 compensates Drake Haglan and Associates to provide assistance during construction.

RESOLUTION NO.

Adopted by the Sacramento City Council

**ADOPT EARING EXAMINER’S FINDINGS AND RECOMMENDED DECISION’
AWARD CONTRACT, APPROVE AGREEMENTS, AND TRANSFER FUNDS
FOR THE SACRAMENTO CITY COLLEGE PEDESTRIAN/BICYCLE
OVERCROSSING PROJECT (T15065700)**

- A. The Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) will construct a new bicycle/pedestrian bridge crossing that will link the Curtis Park Village neighborhood with Sacramento City College and Regional Transit’s Light Rail Station.
- B. The primary funding for construction of this project is \$6,963,000 in Federal Transportation Enhancement Activities (TEA) funds included in the State Transportation Improvement Program (STIP). This funding was allocated to the project by the California Transportation Commission (CTC) in August 2013. Funding in the STIP is subject to the timely use of funds provisions as defined in the STIP Program Guidelines and State requirements.
- C. The project was advertised on July 30, 2014. The bids are summarized below:

Contractor	Bid Amount	DBE Participation (Goal 7 %)	Good Faith Effort(Y or N)
Viking Construction	\$5,836,463.65	7.1%	Y
MCM Construction	\$5,872,424.50	7.0%	Y
C.C. Myers	\$5,995,000.00	4.5%	Y
Disney Construction	\$6,586,464.70	Not analyzed	
RGW Construction	\$7,123,553.55	Not analyzed	

- D. The engineer’s construction estimate was \$5,800,000.
- E. Upon issuance of the Notice of Intent to Award to Viking Construction, C.C. Myers filed a bid protest.
- F. A bid protest hearing was held on November 5, 2014 before a hearing examiner

from McGeorge School of Law. Upon review of the information provided by staff and the contractors, the hearing officer recommended that the bid protest of C.C. Myers be denied.

- G. Construction is expected to begin in December 2014 and project completion is scheduled for January 2016.
- H. The consultant selection process for construction management services has been completed. A Request for Proposals (RFP) for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) was advertised and four firms responded. The consultant selection panel was composed of representatives from the City and Caltrans. The panel reviewed and rated the written proposals and conducted an interview with the top two (2) rated firms and Psomas ranked highest. Psomas has assembled a highly qualified and experienced team to perform construction management services needed for the project.
- I. The Professional Services Agreement with Psomas will be providing construction management, inspection, material testing, and labor compliance to ensure conformance with all federal and local requirements.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Plans and Specifications for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) are approved.
- Section 2. That the findings of fact and recommended decision of the hearing examiner are hereby adopted which denies the bid protest of C.C. Myers and recommends contract award to the low bidder Viking Construction.
- Section 3. The construction contract is awarded to Viking Construction for an amount not to exceed \$5,836,463 for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).
- Section 4. The City Manager is authorized to execute a construction contract with Viking Construction for an amount not to exceed \$5,836,463 for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700)
- Section 5. The City Manager is authorized to execute a Professional Services Agreement with Psomas in the amount not to exceed \$915,855 to provide construction management services for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).
- Section 6. The City Manager is authorized to execute Supplemental Agreement No. 13 with Drake Haglan and Associates in an amount not to exceed

\$141,311 for the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).

Section 7. Supplemental Agreement No. 12 to City Agreement No. 2010-0789 with Drake Haglan and Associates is ratified.

Section 8. The City Manager's authority to issue Supplemental Agreements for City Agreement No. 2010-0789 with Drake Haglan and Associates for this project is hereby reset.

Section 9. The FY14/15 Capital Improvement Program is amended by transferring \$109,175 (Fund 2001) from the Pedestrian Improvement Program (T15075200) to the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).

Section 10. The FY14/15 Capital Improvement Program is amended by transferring \$740,825 (Fund 2025) from the Pedestrian Improvement Program (T15100400) to the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700).

Table of Contents:

Exhibit A: Map of the Sacramento City College Pedestrian/Bicycle Overcrossing Project (T15065700) – 1 page

EXHIBIT A

Location Map for
Sacramento City College
Pedestrian/Bicycle Overcrossing Project
(T15065700)

