

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Resolution No. 480 – Determining the Lowest Responsible, Responsive Bidder, Rejecting the Bid of Diversified Holdings NW, Awarding a Public Works Contract to Kamins Construction for the 1 st Avenue NE (N 193 rd Street to NE 195 th Street) New Sidewalk Project in the Amount of \$596,153, and Authorizing the City Manager to Execute the Same
DEPARTMENT:	Public Works
PRESENTED BY:	Tricia Juhnke, City Engineer
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Shoreline residents approved an increase in the Sales and Use Tax in 2018 to construct new sidewalks. The ballot measure included 12 specific locations for construction of new sidewalk. The 1st Avenue NE (N 193rd Street to NE 195th Street) New Sidewalk Project (1st Avenue NE New Sidewalk Project) is the first of those specific sidewalk projects to come before the Council for construction contract award. This project involves the construction of a new sidewalk along the east side of 1st Avenue NE from N 193rd Street to NE 195th Street. Construction is anticipated to start in July 2021 with a total contract time of 60 working days.

Between May 26 and June 16, 2021, the City solicited bids for the construction of the 1st Avenue NE New Sidewalk Project as Bid #9967. While the bid from Diversified Holdings NW in the amount of \$538,060 was the apparent low bid, City staff determined the bid is materially unbalanced and therefore nonresponsive. City staff has determined that the second lowest bid from Kamins Construction is the lowest responsive bid that has also met the City’s requirements. Proposed Resolution No. 480, pursuant to RCW 35.23.352, rejects the apparent low bid due to findings that the bid was unbalanced. Staff is requesting that the City Council adopt proposed Resolution No. 480 and authorize the City Manager to execute a contract with the second lowest bidder, Kamins Construction, for construction of the 1st Avenue NE New Sidewalk Project in the amount of \$596,153.

RESOURCE/FINANCIAL IMPACT:

The ballot measure requires all projects be funded with bond revenue that is then repaid with the Sales and Use Tax collected over the next 20 years. In 2019, the City issued the first series of bonds in the amount of \$11.6 million to fund the initial programming, design, and construction of several sidewalk routes. Ordinance No. 903 provided

\$4,700,000 in the 2021-2022 biennium for this program. This contract amount is within that authorized budget. The project cost and budget summary is as follows:

EXPENDITURES

Design:

Staff and other Direct Expenses	\$ 25,000
DOWL – Design Contract	\$ 265,000
Design Subtotal	\$ 290,000

Construction:

Staff and other Direct Expenses	\$ 50,000
<i>Kamins Construction Contract</i>	\$ 596,153
Contingency (10%)	\$ 60,000
Construction Subtotal	\$ 706,153

Total Project Expenditures **\$ 996,153**

REVENUE

Bond Revenue	\$ 996,153
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Total Project Revenue **\$ 996,153**

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 480 rejecting the apparent low bid of Diversified Holdings NW and authorize the City Manager to execute a construction contract with Kamins Construction in the amount of \$596,153 for the 1st Avenue NE New Sidewalk Project.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The 1st Avenue NE New Sidewalk Project is part of the City's New Sidewalk Program that includes 12 specific new sidewalk locations. The program is funded from a 0.2% increase in Sales and Use Tax that voters approved in November 2018. The 1st Avenue NE New Sidewalk Project is one of two initial sidewalk projects. [Council authorized the City Manager to execute a contract](#) for the design of the sidewalk in April 2020.

The sidewalk will be installed on the east side of 1st Avenue NE and fills a critical gap in the existing sidewalk network. The sidewalk will connect to existing pedestrian facilities at N 193rd Street and NE 195th Street. The design of the sidewalk will incorporate drainage facilities, permeable concrete and an 11-foot-wide pathway sufficient for this section to act as a shared use path for pedestrians and bicyclists.

DISCUSSION

Project Bid Process – Bid #9967

Between May 26 and June 16, 2021, the City solicited bids for contractors to construct the Project under Bid #9967 as noted above. Bids were opened on June 16, 2021 and four (4) bids were received. Diversified Holdings NW was the apparent low bidder with a bid of \$539,060. The other bid proposals were for \$596,152.91, \$639,245, and \$650,732.

On June 17, 2021 a bid protest was received which claimed that Diversified Holdings NW's bid should be considered nonresponsive due to several irregularities. Multiple items in the apparent low bid were significantly lower than the Engineer's Estimate and the average and median bid. An analysis showed that these items were bid well below acquisition costs for materials, which was supported with quotes from subcontractors and suppliers. City staff reviewed the lowest bid independently from the bid protest and found that it was materially unbalanced, meaning that "there is reasonable doubt that awarding to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Government". The unbalancing of the bid was found to be excessive to the point of detriment to the City and therefore the apparent low bidder would not be considered responsive.

The second lowest bid from Kamins Construction was determined to be responsive and met the requirements of the City. This was verified by:

- Evaluation and analysis of the bid through the creation of bid tabulations, and
- Verification that the contractor is properly licensed in Washington State and has not been barred from contracting on federal- and state-funded projects.

The engineer's estimate for construction of the Project was \$605,725. Construction is anticipated to start in July 2021 and be completed within 60 working days.

COUNCIL GOAL(S) ADDRESSED

This Project addresses Council Goal #2: Continue to deliver highly valued public services through management of the City's infrastructure and stewardship of the natural

environment, and specifically Action Step 1: Implement the new Sidewalk Construction Program.

RESOURCE/FINANCIAL IMPACT

The ballot measure requires all projects be funded with bond revenue that is then repaid with the Sales and Use Tax collected over the next 20 years. In 2019, the City issued the first series of bonds in the amount of \$11.6 million to fund the initial programming, design, and construction of several sidewalk routes. Ordinance No. 903 provided \$4,700,000 in the 2021-2022 biennium for this program. This contract is within that authorized budget. The project cost and budget summary is as follows:

EXPENDITURES

Design:

Staff and other Direct Expenses	\$ 25,000
DOWL – Design Contract	\$ 265,000
Design Subtotal	\$ 290,000

Construction:

Staff and other Direct Expenses	\$ 50,000
<i>Kamins Construction Contract</i>	\$ 596,153
Contingency (10%)	\$ 60,000
Construction Subtotal	\$ 706,153

Total Project Expenditures **\$ 996,153**

REVENUE

Bond Revenue	\$ 996,153
	\$ 996,153

Total Project Revenue **\$ 996,153**

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 480 rejecting the apparent low bid of Diversified Holdings NW and authorize the City Manager to execute a construction contract with Kamins Construction in the amount of \$596,153 for the 1st Avenue NE New Sidewalk Project.

ATTACHMENTS

Attachment A – Proposed Resolution No. 480

RESOLUTION NO. 480

A RESOLUTION OF THE CITY COUNCIL OF CITY OF SHORELINE, WASHINGTON DETERMINING THE LOWEST RESPONSIBLE, RESPONSIVE BIDDER, REJECTING THE BID OF DIVERSIFIED HOLDINGS NW, AWARDING A PUBLIC WORKS CONTRACT TO KAMINS CONSTRUCTION FOR THE 1ST AVENUE NE (N 193RD TO NE 195TH STREET) NEW SIDEWALK PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME.

WHEREAS, Shoreline residents approved an increase in the Sales and Use Tax in 2018 to construct new sidewalks; and

WHEREAS, the ballot measure included 12 specific locations for construction of new sidewalk; and

WHEREAS, the 1st Avenue NE (N 193rd Street to NE 195th Street) New Sidewalk Project (1st Avenue NE New Sidewalk Project) involves the construction of a new sidewalk along the east side of 1st Avenue NE from N 193rd Street to NE 195th Street and is the first of those specific sidewalk projects to come before the Council for construction contract award with an anticipated start in July 2021 with a total contract time of 60 working days; and

WHEREAS, between May 26 and June 16, 2021, the City solicited bids for the construction of the 1st Avenue NE New Sidewalk Project (Bid Project #9967); and

WHEREAS, the City received four (4) bids for the 1st Avenue NE New Sidewalk Project; and

WHEREAS, a bid from Diversified Holdings NW in the amount of \$538,060 was the apparent low bid; and

WHEREAS, on June 17, 2021, a timely bid protest was received which claimed that Diversified Holdings NW's bid should be considered nonresponsive due to several irregularities; and

WHEREAS, City staff reviewed the protest and the lowest bid independently from the bid protest and found multiple items in the apparent low bid were significantly lower than the Engineer's Estimate and the average and median bid. The analysis also showed that these items were bid well below acquisition costs for materials, which finding is supported with quotes from subcontractors and suppliers. Based on that analysis, the City determined that Diversified Holdings NW's bid was materially unbalanced, meaning that "there is reasonable doubt that awarding to the bidder submitting the unbalanced bid will result in the lowest ultimate cost to the Government"; and

WHEREAS, the unbalancing of the bid was found to be excessive to the point of detriment to the City and therefore the apparent low bidder was not considered responsive; and

WHEREAS, excluding Diversified Holdings NW's proposal, the bid proposal submitted by Kamins Construction, in the amount of \$596,152.91 was the lowest responsive bid; and

WHEREAS, City staff have checked references and otherwise determined that Kamins Construction meets the mandatory bidder responsibility criteria specified in RCW 39.04.350(1) and any applicable supplemental bidder responsibility criteria adopted by the City of Shoreline;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Rejection of Apparent Low Bid. Because the bid from Diversified Holdings NW was unbalanced due to the fact that it was significantly lower than the Engineer's Estimate and the average and median bid amounts in several critical respects, as well as below acquisition costs for several materials, the bid of Diversified Holdings NW is hereby rejected as non-responsive.

Section 2. Determination of Lowest Responsive, Responsible Bidder. Based on the foregoing recitals, which are hereby incorporated as findings of fact, Kamins Construction is the lowest responsive and responsible bidder for the 1st Avenue NE New Sidewalk Project.

Section 3. Award of Public Works Contract. The contract for the 1st Avenue NE New Sidewalk Project, is hereby awarded to Kamins Construction in accordance with its bid proposal.

Section 4. Authorization for Contract Execution. The City Manager is authorized to execute a public works contract with Kamins Construction in accordance with the bid requirements in a form acceptable to the City Attorney.

ADOPTED BY THE CITY COUNCIL ON JUNE 28, 2021.

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith

Approved as to form:

Margaret King, City Attorney