

July 17, 2009 Special Meeting

BENICIA CITY COUNCIL

SPECIAL MEETING AGENDA

City Council Chambers

July 17, 2009

9:00 A.M.

Times set forth for the agenda items are estimates. Items may be heard before or after the times designated.

I. CALL TO ORDER (9:00 A.M.):

II. CONVENE OPEN SESSION:

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

III. ADOPTION OF THE AGENDA:

IV. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda.

If approved by the adoption of the agenda, each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT

B. PUBLIC COMMENT

V. ACTION ITEMS:

A. [Award of contracts for construction and construction management/engineering support services for the BHS Traffic Signal and Entrance Circulation Improvement Project.](#) (Public Works and Community Development Director)

The City Council approved as part of the FY 2007–2009 budget process a project to address problems of vehicle and pedestrian congestion and the need for traffic calming on Military West at Benicia High School. Seven construction bids were received and the Public Works Department recommends awarding a construction contract in the amount of \$574,842 (including all bid alternates) to Prism Engineering Inc. It is also recommended to modify the Fehr & Peers consultant services agreement in an amount not-to-exceed \$193,521 to assist city staff with construction management, engineering support and inspection services. The project is planned to begin construction during the 2009 summer school break. There are adequate funds available in the Traffic Mitigation Fund for the proposed expenditures.

Recommendation: Adopt the following two resolutions:

1. Accepting the bids for the Benicia High School Traffic Signal and Entrance Circulation Improvement project, rejecting the protest of Hess Construction, awarding the construction contract to Prism Engineering Inc. of Santa Clara in the amount of \$574,842 including Bid

Alternates A, B, C, D, and E and authorizing the City Manager to sign the contract on behalf of the City.

2. Approving a contract modification for construction phase engineering support (Task Order No. 4) and construction management/inspection services (Task Order No. 5) for the Benicia High School Traffic Signal and Entrance Circulation Improvement project with Fehr & Peers, Inc., for a not-to-exceed cost of \$193,521 and authorizing the City Manager to sign the contract modification on behalf of the City.

VI. ADJOURNMENT (9:30 A.M.):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. If approved by the adoption of the agenda, comments will be limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

 [V-A Award of Contract.pdf](#)

**AGENDA ITEM
SPECIAL CITY COUNCIL MEETING: JULY 17, 2009
ACTION ITEM**

DATE : July 13, 2009

TO : City Manager

FROM : Director of Public Works

SUBJECT : **AWARD OF CONTRACTS FOR CONSTRUCTION AND
CONSTRUCTION MANAGEMENT/ENGINEERING SUPPORT
SERVICES FOR THE BHS TRAFFIC SIGNAL AND ENTRANCE
CIRCULATION IMPROVEMENT PROJECT**

RECOMMENDATION:

Adopt the following two resolutions:

1. Accepting the bids for the Benicia High School Traffic Signal and Entrance Circulation Improvement project, rejecting the protest of Hess Construction, awarding the construction contract to Prism Engineering Inc. of Santa Clara in the amount of \$574,842 including Bid Alternates A, B, C, D, and E and authorizing the City Manager to sign the contract on behalf of the City.
2. Approving a contract modification for construction phase engineering support (Task Order No. 4) and construction management/inspection services (Task Order No. 5) for the Benicia High School Traffic Signal and Entrance Circulation Improvement project with Fehr & Peers, Inc., for a not-to-exceed cost of \$193,521 and authorizing the City Manager to sign the contract modification on behalf of the City.

EXECUTIVE SUMMARY:

The City Council approved as part of the FY 2007–2009 budget process a project to address problems of vehicle and pedestrian congestion and the need for traffic calming on Military West at Benicia High School. Seven construction bids were received and the Public Works Department recommends awarding a construction contract in the amount of \$574,842 (including all bid alternates) to Prism Engineering Inc. It is also recommended to modify the Fehr & Peers consultant services agreement in an amount not-to-exceed \$193,521 to assist city staff with construction management, engineering support and inspection services. The project is planned to begin construction during the 2009 summer school break. There are adequate funds available in the Traffic Mitigation Fund for the proposed expenditures.

STRATEGIC PLAN:

Relevant Strategic Plan Goals and Strategies:

- Goal 4:00: Preserve and Enhance City Assets and Infrastructure
 - Strategy 4.10: Provide a balanced street system to serve automobiles, pedestrians, bicycles and transit (G.P. Goal #2.20)
 - Strategy 4.40: Improve and maintain facilities and infrastructures

BUDGET INFORMATION:

The adopted FY 2007–2009 municipal budget includes \$400,000 in funding for design and construction of the project. The proposed FY 2009–2011 municipal budget includes \$800,000 in funding for construction and construction management/inspection services. There are adequate funds in the Traffic Mitigation Fund for the construction contract and the construction management and inspection services.

PROJECT REVENUES

Adopted FY2007–2009 Budget (Account No. 034-8705-9765)	\$400,000
Adopted FY2009–2011 Budget (Account No. 034-8705-9765)	800,000
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Total Budget.....	\$1,200,000

PROPOSED EXPENDITURES

Conceptual, Prelim., Final Design Services (Fehr & Peers) (Task Orders No. 1–3)....	\$218,815
Summer 2008 Improvements (Radar Speed Signs, Benches, Crosswalk).....	35,000
Construction Support (Fehr & Peers)	
Task Order 4–Engineering Services (<i>This Request</i>)	17,870
Task Order 5–Construction Management/Inspection Services (<i>This Request</i>)	175,651
Construction Contract	
Base Bid (Traffic signal, curb extensions, road diet) (<i>This Request</i>)	377,617
Bid Alternate A (Mid-block tree wells/hardscaping) (<i>This Request</i>)	63,845
Bid Alternate B (Slurry seal) (<i>This Request</i>)	33,250
Bid Alternate C (Trees and Irrigation) (<i>This Request</i>).....	65,130
Bid Alternate D (Relocate lighted crosswalk) (<i>This Request</i>)	15,000
Bid Alternate E (Bus shelter) (<i>This Request</i>).....	20,000
Contingency (10%)	38,000
Police Overtime for Work Zone Safety & Traffic Circulation	10,000
Public Outreach.....	10,000
<hr/>	
Total Estimated Expenditures	\$1,080,200

Approximately \$120,000 in budgeted funds is expected to be available for other Traffic Mitigation type work after project completion.

- Bid Alternate A includes the mid-block tree wells and associated hardscaping elements - \$63,845.
- Bid Alternate B is the slurry sealing of Military West along the project length - \$33,250.
- Bid Alternate C includes trees and irrigation system - \$65,130.

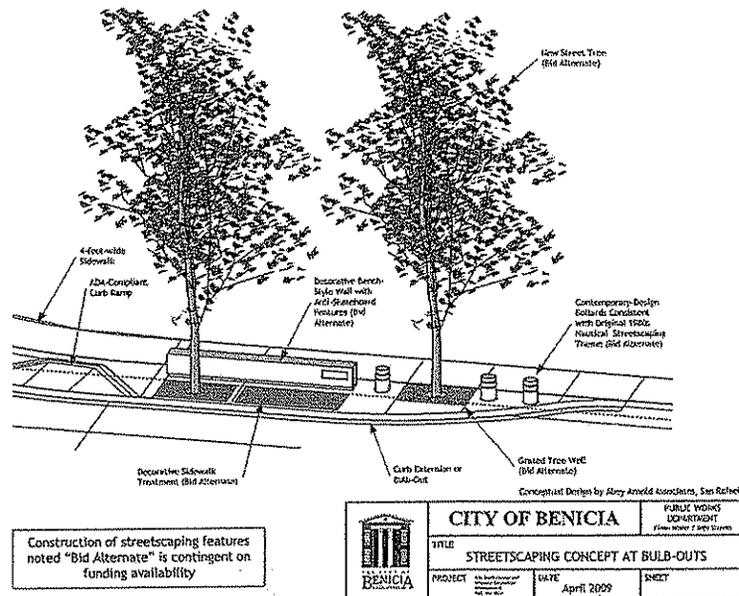
- Bid Alternate D is the relocation of the lighted crosswalk from West Eleventh Street to the intersection of East Second Street and Riverhill Drive -\$15,000.
- Bid Alternate E is the installation of an architecturally matching bus shelter in front of the high school - \$20,000.

Because the submitted total base bid from the contractor is significantly below the engineer's estimate, there is more than adequate budget capacity to award all the bid alternates and complete the entire project in a single construction phase.

BACKGROUND:

The Benicia High School Traffic Signal and Entrance Circulation Improvement project consists of features intended to accommodate ingress/egress activities, reduce vehicle and pedestrian conflicts, and manage congestion during the morning drop-off, lunchtime, and afternoon pick-up of students. The project incorporates traffic calming ideas from the Benicia Traffic, Pedestrian and Bicycle Safety Committee (TPBS); the Benicia Safe Routes to School (SR2S) Plan; the Solano Transportation Authority Countywide SR2S Plan; and the Benicia Traffic Calming Program. Significant public input and outreach was gathered from the school district, students, parents, and surrounding neighborhoods to develop the project.

This project is also an opportunity to create a landscaped, campus-oriented linear gateway adjacent to Benicia High School.



Construction of streetscaping features noted "Bid Alternate" is contingent on funding availability

Representatives from the City, school district on-site administrators, the contractor, and the consultant construction manager will meet weekly to review and discuss construction progress and traffic control/congestion-related issues. In addition to providing routine updates to the School District/City Liaison Committee, City and school district staff will be working with the selected contractor on construction phasing, staging proposals, and ways to expedite the completion of the project.

The project webpage (www.ci.benicia.ca.us>BHSTraffic Signal and Entrance Circulation Improvement Project) has up-to-date information regarding the design features, the public input process, and construction progress.

BID RESULTS:

On June 30, seven bid proposals for the construction of the improvements were properly received and publicly opened. The bid results are summarized in the table below:

Rank	Bidder Name and City	Total Base Bid
1	Prism Engineering, Santa Clara	\$377,616.50
2	Hess Construction, American Canyon	\$382,143.00 (\$4,526.50 above base bid)
3	North Bay Construction, Petaluma	\$385,589.50 (\$7,973.00 above base bid)
4	Ghilotti Brothers, San Rafael	\$405,032.50 (\$27,416.00 above base bid)
5	WR Forde Associates, Richmond	\$483,563.00 (\$105,947.00 above base bid)
6	JA Gonsalves, Napa	\$518,447.50 (\$140,831.00 above base bid)
-	Steiny and Co., Vallejo	Deemed Unresponsive
-	Engineer's Estimate	\$698,715.00 (\$321,099.00 above base bid)

The total base bid results include corrections to individual bid amounts of mathematical errors by the bidders and an adjustment made to all bids to a bid item noted as "not in contract." This adjustment was made as it was not clear to all bidders that no bid amount should have been included in this bid item.

A bid protest was subsequently filed on this item and an administrative hearing was conducted on July 13, 2009 to process the bid protest in accordance with the City of Benicia Administrative Policy No. 2.

After reviewing the submitted bids and carefully considering the information presented at the bid protest hearing, Prism Engineering Inc. of Santa Clara was determined to have submitted the lowest, responsive, responsible bid and it is therefore recommended to award the construction contract including Bid Alternates A, B, C, D, and E in the amount of \$574,842 to Prism Engineering, Inc. A copy of the City Manager's decision as well as the protest are attached.

Staff also recommends approval of a contract modification for construction management/inspection/engineering support services for the project with Fehr & Peers, Inc., for a cost not-to-exceed \$193,521.

Fehr & Peers was originally selected as the best qualified to assist the City with the project after staff conducted a thorough consultant selection process. The process included soliciting statements of qualifications from three firms and interviewing all that responded.

Fehr & Peers will provide full-time construction management, inspection (6 hours per day during active construction) and engineering support services for the project. As outlined in the scope of work for each task, the project requires approximately 1,250 hours of management, inspection, and specialty site support during the six-month construction schedule. Fehr & Peers on-site staff, which includes Nolte Associates (a well-respected civil engineering and construction management firm), provides construction management and inspection in addition to providing specialty services in the areas of traffic control and traffic signal work. Having all the construction-related activities managed by a single point of contact will ensure maximum efficiency in the control of cost, schedule, and communication. Staff recommends that Council approve Task Orders No. 4 and 5 with Fehr & Peers for a cost not-to-exceed \$193,521.

cc: City Attorney
City Engineer

Attachments:

- Proposed Resolutions (2)
- Task Orders No. 4 and 5

Special Meeting V-A-4

- July 13, 2009 Letter from the City Manager
- July 6, 2009 Protest from Hess

Proposed Resolution Accepting the Bids for the
Benicia High School Traffic Signal and
Entrance Circulation Improvement Project

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BIDS FOR THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT, REJECTING THE BID PROTEST, AWARDING THE CONSTRUCTION CONTRACT TO PRISM ENGINEERING INC OF SANTA CLARA IN THE AMOUNT OF \$574,842 INCLUDING BID ALTERNATES A, B, C, D, AND E AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, the Benicia High School Traffic Signal and Entrance Circulation Improvement project was advertised for construction bids and seven bids were properly received and publicly opened on June 30, 2009; and

WHEREAS, a bid protest from Hess Construction was timely filed; and

WHEREAS, the City Manager held a hearing on the protest and subsequently rejected the protest; and

WHEREAS, Prism Engineering, Inc. of Santa Clara, was determined to be the bidder submitting the lowest responsive, responsible total base bid; and

WHEREAS, adequate funding is available in the project budget for the inclusion of Bid Alternates A, B, C, D, and E, which will provide for a single phase of construction; and

WHEREAS, a Notice of Exemption was prepared for the project in accordance with CEQA Guidelines requirements and filed for 30-days with the Clerk of the Solano County Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby accepts the bids for the Benicia High School Traffic Signal and Entrance Circulation Improvement project.

BE IT FURTHER RESOLVED that "Not in Contract" amounts were properly removed from all bids as minor irregularities and so as not to give any bidder an improper or unfair advantage. This results Prism Engineering, Inc. submitting the lowest responsive, responsible total base bid.

BE IT FURTHER RESOLVED THAT the City Council awards the construction contract to Prism Engineering, Inc. of Santa Clara in the amount of \$574,842 including Bid Alternates A, B, C, D, and E and authorizes the City Manager to sign the contract on behalf of the City, subject to approval by the City Attorney.

On motion of Council Member _____ and seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a special meeting of said Council held on the 17th day of July, 2009, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Proposed Resolution Approving a Contract for
Construction Management/Engineering Support
Services

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT MODIFICATION FOR CONSTRUCTION PHASE ENGINEERING SUPPORT AND CONSTRUCTION MANAGEMENT/INSPECTION SERVICES FOR THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT WITH FEHR & PEERS FOR A NOT-TO-EXCEED COST OF \$193,521 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT MODIFICATION ON BEHALF OF THE CITY

WHEREAS, it is necessary to augment city staff during the construction of the Benicia High School Traffic Signal and Entrance Circulation Improvement project because of limited resources and the importance of providing a high level of attention required to communicate and coordinate construction activities with the community and school district administrators while high school is in session; and

WHEREAS, construction management, inspection, and engineering support services during construction of the project are essential to control cost, schedule, and effect good communication; and

WHEREAS, the City Council previously authorized task orders with Fehr & Peers for the conceptual, preliminary, and final design of the project after a thorough consultant proposal review, interview, and selection process was conducted by City staff; and

WHEREAS, Fehr & Peers is the most capable in all material aspects to perform full contract requirements and is highly qualified to perform the construction management and engineering support services for the project.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves a contract modification for construction phase engineering support (Task Order No. 4) and construction management/inspection services (Task Order No. 5) for the Benicia High School Traffic Signal and Entrance Circulation Improvement project with Fehr & Peers, Inc., for a not-to-exceed cost of \$193,521 and authorizes the City Manager to sign the contract modification on behalf of the City, subject to approval by the City Attorney.

On motion of Council Member _____ and seconded by Council Member _____, the above Resolution was introduced and passed by the City Council of the City of Benicia at a special meeting of said Council held on the 17th day of July, 2009, and adopted by the following vote.

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

Task Orders No. 4 and 5

**EXHIBIT A
TASK ORDER NO. 4
FEHR & PEERS
BHS TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT
PROJECT —
DESIGN SUPPORT DURING CONSTRUCTION**

1. Purpose

The purpose of this TASK ORDER is to authorize and direct CONSULTANT to proceed with the work specified in Item 2 of this TASK ORDER, in accordance with the provisions of Section 2 of the Specific Provisions of that AGREEMENT between the parties hereto dated February 14, 2008.

2. Scope of Work

The work authorized by this TASK ORDER is outlined in the "Scope of Services" attached hereto as Attachment No. 4-1. This TASK ORDER applies solely to the Fehr & Peers scope of work dated June 26, 2009.

3. Time of Performance

The work authorized by this TASK ORDER shall commence upon execution by both parties and shall be prosecuted diligently to completion.

4. Compensation and Payment

Compensation shall be on a specific rate of compensation basis as provided in Section 3 of the Specific Provisions of that AGREEMENT between the parties hereto dated February 14, 2008. The cost of the work authorized by this TASK ORDER shall be on a time and materials basis, not-to-exceed \$17,870. Payment shall be in accordance with Section 3 of the aforementioned AGREEMENT.

5. Effective Date

This TASK ORDER shall become effective immediately upon its execution by both parties.

6. Items and Conditions

All items and conditions contained in the AGREEMENT for Professional Engineering Services dated February 14, 2008, between the City of Benicia and Fehr & Peers are incorporated herein by reference.

Executed this _____ day of _____, 2009.

CITY OF BENICIA

FEHR & PEERS

By: _____
Jim Erickson
City Manager

By: _____
Matthew Ridgeway
Principal

Special Meeting V-A-13

**EXHIBIT A
TASK ORDER NO. 5
FEHR & PEERS
BHS TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT
PROJECT —
CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

1. Purpose

The purpose of this TASK ORDER is to authorize and direct CONSULTANT to proceed with the work specified in Item 2 of this TASK ORDER, in accordance with the provisions of Section 2 of the Specific Provisions of that AGREEMENT between the parties hereto dated February 14, 2008.

2. Scope of Work

The work authorized by this TASK ORDER is outlined in the "Scope of Services" attached hereto as Attachment No. 5-1. This TASK ORDER applies solely to the Fehr & Peers scope of work dated July 1, 2009.

3. Time of Performance

The work authorized by this TASK ORDER shall commence upon execution by both parties and shall be prosecuted diligently to completion.

4. Compensation and Payment

Compensation shall be on a specific rate of compensation basis as provided in Section 3 of the Specific Provisions of that AGREEMENT between the parties hereto dated February 14, 2008. The cost of the work authorized by this TASK ORDER shall be on time and materials basis not-to-exceed \$175,651. Payment shall be in accordance with Section 3 of the aforementioned AGREEMENT.

5. Effective Date

This TASK ORDER shall become effective immediately upon its execution by both parties.

6. Items and Conditions

All items and conditions contained in the AGREEMENT for Professional Engineering Services dated February 14, 2008, between the City of Benicia and Fehr & Peers are incorporated herein by reference.

Executed this _____ day of _____, 2009.

CITY OF BENICIA

FEHR & PEERS

By: _____
Jim Erickson
City Manager

By: _____
Matthew Ridgeway
Principal

Special Meeting V-A-14

July 13, 2009 letter from the City Manager

Special Meeting V-A-15



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4210 • FAX (707) 747-8120

Via Fax and Mail
JIM ERICKSON 707-552-3988
City Manager 408-562-0027

July 13, 2009

Larry Hess
Hess Construction Company
4484 American Canyon Road
American Canyon, CA 94503

Kal Slayyeh
Prism Engineering, Inc.
630 Reed Street
Santa Clara, CA 95050

RE: Bid Protest for the Benicia High School Traffic Signal

Dear Mr. Hess and Mr. Slayyeh:

Thank you for presenting your information regarding the bid protest filed by Hess Construction on the Benicia High School Traffic Signal Project. I have considered the information presented by you and by City staff.

I have decided that the "Not in Contract" item for the service connection fee was properly excluded by City staff when determining the low bidder. "Not in Contract" is a typical term for public construction contracts to indicate the item is not to be bid on. The definitions in the bid packet indicated that contract items are bid items for which the bidder must provide a price. Thus, the opposite is true for items "Not in Contract." While I agree that the bid sheets should have been clearer to note that a price was not required for that line item, it is most fair to remove the amounts listed by bidders for that item. The instructions for the bids specifically require the bidders to fill in "all items in the Bid Schedule". Five of the seven bidders listed a dollar amount for this item. In order to determine the lowest bidder, it is fair and reasonable to remove the amounts listed for this item. I note that the alternative of adding in an amount to those bids that did not include this item is not possible, in part due to the wide range of amounts submitted by the other bidders.

Both the bid packet and state law allow the City to waive minor irregularities that do not give one bidder advantage over others. I conclude that deleting this item that was not intended to be part of the bidders' proposal is such a minor irregularity.

ELIZABETH PATTERSON, *Mayor*
Members of the City Council
TOM CAMPBELL, *Vice Mayor* • MIKE IOAKIMEDES • MARK C. HUGHES • ALAN M. SCHWARTZMAN

JIM ERICKSON, *City Manager*
TEDDIE BIDOU, *City Treasurer*
LISA WOLFE, *City Clerk*



Special Meeting V-A-16

Hess Construction
Prism Engineering
July 13, 2009
Page 2

As for the other items in the protest letter, no evidence was presented that Prism cannot do the work for which subcontractors might be listed. Prism's representative noted that they would have the people and equipment to do the work. It was further noted that Prism has a range of past projects to indicate its competency to perform the work required by this project. And finally, the last item, the advocate, is a requirement for state contracts and not city contracts.

I, therefore, reject the bid protest and will recommend the City Council award the contract to Prism at a special meeting on Friday, July 17, 2009 at 9 A.M.

Sincerely,



Jim Erickson
City Manager

cc: City Attorney
Acting City Engineer

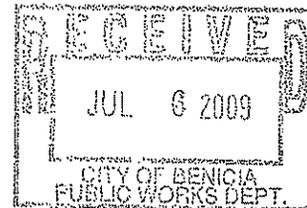
July 6, 2009 Protest from Hess

Special Meeting V-A-18

Hess Construction Co., Inc.

4484 Hess Drive, American Canyon CA 94503
Phone: (707) 552-7931 Fax: (707) 552-3988
Contractor's State License No. 265925
An Equal Opportunity Employer

July 6, 2009



Michael W. Throne
City of Benicia
250 East L Street
Benicia, CA 94510

RE: Benicia High School Traffic Signal and Entrance Circulation
Improvement Project
Bid Protest

Pursuant to Section 10306 of the California Public Contract Code, we are filing a bid protest with the City of Benicia against awarding the contract for the aforementioned project to Prism Engineering, on the grounds that we are the lowest responsible bidder meeting the requirements of the specifications.

Prism Engineering included a cost of \$5,000 for Bid Item #15. Therefore, the total base bid amount for Prism Engineering is \$382,616. Bids cannot be altered prior to award. Therefore, the only way Bid Item #15 can be changed/eliminated is by a change order after the Contract has been awarded. Since the total base bid amount for Hess Construction is \$382,143, we are the lowest responsible bidder.

Prism Engineering did not list any subcontractors for electrical/traffic signals, concrete, interlocking pavers, slurry seal, or striping & signs. Therefore, they are required to perform this work with their own forces. Section 2-1.051. COMPETANCY OF BIDDER states the bidder "... shall be skilled and regularly engaged in the general class or type of work called for under this contract. A statement setting forth his experience and business standing shall be submitted by each bidder when required in the Special Provisions or if he has not previously performed work of similar nature and scope for the City."

Pursuant to Section 10300 of the California Public Contract Code, please provide the name and contact information for the Customer Advocate and the State Board of Control. Also, please provide a copy of the information required per Section 2-1.051. COMPETANCY OF BIDDER from Prism Engineering.

Sincerely,

Kevin Johanson
Vice-President

Special Meeting V-A-19

Hess Construction Co., Inc.

4484 Hess Drive, American Canyon CA 94503

Phone: (707) 552-7931 Fax: (707) 552-3988

Contractor's State License No. 265925

An Equal Opportunity Employer

Attachments:

1. Division 2, Part 2, Chapter 2, Article 3 Sections 10300 & 10306 of the California Public Contract Code (2 pages)
2. Copy of Prism Engineering's current license classifications per the Contractors State License Board (1 page)

PUBLIC CONTRACT CODE SECTION 10300-10334

10300. (a) A Customer and Supplier Advocate shall be established in the department as a resource to state agencies and departments, and suppliers seeking information regarding the state process, procedures, and regulations for bidding on state contracts, and as a resource to bidders seeking to file a protest on award in accordance with this chapter. The advocate shall, at a minimum, provide the following services to the protesting bidder:

(1) Assistance to customer departments and agencies regarding contracting rules and regulations, and acquisition resource options.

(2) Assistance to the bidder in assessing the validity of the bidder's proposed grounds of filing the protest in accordance with the terms of the solicitation, as well as statutory or regulatory guidelines governing the solicitation in question.

(3) Provision of information to the protesting bidder regarding avenues and options available to the bidder to proceed with a formal protest of the award.

(b) The advocate shall make services, as specified in this section, available on a timely basis to the protesting bidder.

(c) Notification to bidders regarding the availability of services by the advocate shall be included in the solicitation. This notification shall also outline procedures and timelines for bidders who may wish to engage the services of the advocate.

~~inspection and tabulations shall be completed within seven days.~~

10306. Whenever a contract or purchase order under this article is not to be awarded to the lowest bidder, the bidder shall be notified 24 hours prior to awarding the contract or purchase order to another bidder. Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the department at least 24 hours prior to awarding the contract or purchase order. If prior to making the award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relative to the protest. In computing the 24-hour periods provided for in this section, Saturdays, Sundays, and legal holidays shall be excluded.

Within 10 days after filing a protest, the protesting bidder shall file with the State Board of Control a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

Department of Consumer Affairs
Contractors State License Board

Contractor's License Detail - License # 769171

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- > CSLB complaint disclosure is restricted by law (B&P 7124.6). If this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.
- > Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.
- > Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.
- > Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

License Number: 769171 **Extract Date:** 07/06/2009
Business Information: PRISM ENGINEERING INC
 630 REED STREET
 SANTA CLARA, CA 95050
 Business Phone Number: (408) 562-0026
Entity: Corporation
Issue Date: 09/23/1999
Expire Date: 09/30/2009
License Status: This license is current and active. All information below should be reviewed.

Classifications:	CLASS	DESCRIPTION
	A	GENERAL ENGINEERING CONTRACTOR
		CONTRACTOR'S BOND
		This license filed Contractor's Bond number BB7631 in the amount of \$12,500 with the bonding company CONTRACTORS BONDING AND INSURANCE COMPANY.
		Effective Date: 01/09/2009
Bonding:		Contractor's Bonding History
		BOND OF QUALIFYING INDIVIDUAL
		1. The Responsible Managing Officer (RMO) HASHEM AHMAD SLAYYEH certified that he/she owns 10 percent or more of the voting stock/equity of the corporation. A bond of qualifying individual is not required.
		Effective Date: 09/23/1999
		This license has workers compensation insurance with the DELOS INSURANCE COMPANY.
		Policy Number: 02DKRM12001644
Workers' Compensation:		Effective Date: 12/01/2008
		Expire Date: 12/01/2009
		<u>Workers' Compensation History</u>

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