



# City of Chula Vista

## Staff Report

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**File#: 16-0203, Item#: 13**

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CONSIDERATION OF WAIVING IRREGULARITIES IN THE BID RECEIVED FOR THE COMBINED ADVERTISEMENT OF THE “BIKE LANE ALONG EAST “H” STREET [STM-382]” AND “OTAY RANCH PRESERVE ACCESS CONTROL [GG-223]” PROJECTS PER CITY CHARTER SECTION 1009

- A. RESOLUTION NO. 2016-120 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING BIDS, WAIVING MINOR IRREGULARITIES, AND AWARDING THE CONTRACT FOR THE COMBINED ADVERTISEMENT OF THE “BIKE LANE ALONG EAST “H” STREET [STM-382]” AND “OTAY RANCH PRESERVE ACCESS CONTROL [GG-223]” PROJECTS TO PAL GENERAL ENGINEERING, INC. IN THE AMOUNT OF \$2,326,865.42; WAIVING CITY COUNCIL POLICY NO. 574-01 AND AUTHORIZING THE EXPENDITURE OF ALL AVAILABLE CONTINGENCY FUNDS NOT TO EXCEED \$290,266; AND APPROPRIATING \$144,435 FROM THE AVAILABLE BALANCE OF THE TRANSPORTATION DEVELOPMENT IMPACT FEE (TDIF) FUND TO STM-382 (4/5 VOTE REQUIRED)
- B. RESOLUTION NO. 2016-121 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE REIMBURSEMENT AGREEMENT BETWEEN LUTHERAN HIGH SCHOOL OF SAN DIEGO AND THE CITY OF CHULA VISTA FOR THE CONSTRUCTION OF IMPROVEMENTS INCORPORATED INTO STM-382 AND APPROPRIATING \$415,689 TO THE CAPITAL IMPROVEMENT FUND BASED ON REVENUE ASSOCIATED WITH SAID AGREEMENT TO STM-382 (4/5 VOTE REQUIRED)

### **RECOMMENDED ACTION**

Council conduct the public hearing and adopt the resolutions.

### **SUMMARY**

On May 11, 2016, the Director of Public Works received four sealed bids for the combined advertisement of “Bike Lane along East H Street [STM-382]” and “Otay Ranch Preserve Access Control [GG-223]” projects. The projects are included in the Capital Improvement Program for Fiscal Years 2015/2016 and 2014/2015, respectively. The proposed Resolution “A”, if approved, would accept bids, waive irregularities, and award the contract for this project to PAL General Engineering, Inc. in the amount of \$2,326,865.42; waive City Council Policy 574-01 and authorize the expenditure of all available contingency funds in the amount not to exceed \$290,266; and approve an appropriation of \$144,435 from the available balance of Transportation Development Impact Fee fund to STM-382. The proposed Resolution “B”, if approved, would approve the reimbursement agreement between Lutheran High School of San Diego and the City of Chula Vista, California for the construction of improvements that were incorporated into STM-382 and appropriate the associated \$415,689 in revenue to STM-382.

## **ENVIRONMENTAL REVIEW**

### **Environmental Notice**

The Bike Lane along East “H” Street Project qualifies for a Categorical Exemption pursuant to the California Environmental Quality Act State Guidelines Section 15304 Class 4 (Minor Alterations to Land) and/or Section 15301 Class 1 (Existing Facilities). The Otay Ranch Preserve Access Control Project qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act State Guidelines.

### **Environmental Determination**

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Bike Lane along East “H” Street Project (STM-382) qualifies for a Categorical Exemption pursuant to State CEQA Guidelines Section 15304 Class 4 (Minor Alterations to Land) and/or Section 15301 Class 1 (Existing Facilities). In addition, the Otay Ranch Preserve Access Control Project (GG-223) qualifies for a Class 3 Categorical Exemption pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act State Guidelines. Thus, no further environmental review is required.

### **BOARD/COMMISSION RECOMMENDATION**

Not applicable.

### **DISCUSSION**

The “Bike Lane along East “H” Street [STM-382]” and “Otay Ranch Preserve Access Control [GG-223]” projects were combined and advertised as one project for efficiency in bidding and contract administration. Additionally, the combined advertisement reduces construction impacts on overall public safety and convenience.

#### Bike Lane along East “H” Street (STM-382)

The project will construct five-foot-wide Class 2 east and west bound bikeway facilities along approximately 2,100 lineal feet of East “H” Street from west of Buena Vista Way to the Southwestern College Driveway and construct a right turn lane into Southwestern College. Lutheran High School of San Diego (LHS) was required by its Conditional Use Permit under Planning Commission Resolution No. PCC-13-004 Condition No. 24, dated August 13, 2014 (Attachment 2) to construct a bike lane and parkway along its frontage on East “H” Street and extend the eastbound to northbound left turn lane to Buena Vista Way. To minimize disruptions to public safety and convenience, City staff coordinated with LHS to incorporate the conditioned improvements into STM-382 so that construction impacts can be limited to a single project and to complete the bike lane improvements along the north side of East “H” Street more efficiently. The costs associated with the conditioned improvements will be reimbursed to the City by LHS in accordance with the Reimbursement Agreement for Payment of Costs to Construct Street Improvements by and between Lutheran High School of San Diego and the City of Chula Vista, California (Bike Lanes along East “H” Street Project) to be approved by the proposed Resolution “B” (Attachment 3).

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**Otay Ranch Preserve Access Control (GG-223)**

In a joint powers authority with the County of San Diego, the City of Chula Vista owns and manages the Otay Ranch Preserve located in the vicinity of the Otay Mountain "Minnewawa" Truck Trail off of Otay Lakes Road in County jurisdiction. The preserve, which includes critical habitat for the Federally-listed Quino Checkerspot butterfly, has been disturbed by illicit off-road activities. This project will construct 2,015 lineal feet of steel pipe fence and three gates along segments of the Otay Mountain "Minnewawa" Truck Trail to prevent off-road vehicles from trespassing on the preserve and disturbing the habitat.

**Bidding Process**

On May 11, 2016, the Director of Public Works received four (4) bids for the "Bike Lane along East H Street [CIP No. STM-382]" and "Otay Ranch Preserve Access Control [CIP No. GG-223]" projects. The following bids were received:

	<b>CONTRACTOR</b>	<b>SUBMITTAL RESULT</b>	<b>BASE BID AMOUNT SUBMITTED</b>
1	PAL General Engineering, Inc. - San Diego, CA	All requirements met but with minor mathematical errors	\$2,326,869*
2	LB Civil Construction, Inc. - San Diego, CA	All requirements met	\$2,362,456.35
3	Palm Engineering Construction Co., Inc. - San Diego, CA	All requirements met but with minor mathematical errors	\$2,585,590.83*
4	Weir Construction Corp. - Escondido, CA	Requirements met except bid prices not written in words and minor mathematical errors	\$2,959,927.50*

*\* Referenced base bid amount is as submitted by the Contractor. Actual base bid amounts with revised minor mathematical errors may differ; however, they did not change the outcome and ranking of the bids.*

Staff reviewed the low bid submitted by PAL General Engineering, Inc. and determined that their bid package met all the submittal requirements, but included minor mathematical errors. These errors included minor discrepancies between unit prices quoted in words and figures and errors in multiplication of the unit price with the quantity. The resulting revised PAL General Engineering, Inc. base bid amount of \$2,326,865.42 is above the Engineer's estimate of \$2,050,000 by \$276,865.42 (or approximately 13.5%). The Contractor has acknowledged the mathematical errors and has indicated that they will honor the revised base bid amount (Attachment 4).

The Contractor's License No. 916931, as well as all listed sub-contractors' licenses, are current and active. Staff recommends awarding a contract in the amount of \$2,326,865.42 to PAL General Engineering, Inc.

**Change Orders**

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The proposed Resolution “A” would also authorize the Director of Public Works to approve change orders over and above existing policy limits. Under City Council Policy No. 574-01, if an individual change order causes the cumulative increase in change orders to exceed the Director’s authority (“Maximum Aggregate Increase in Change Orders”), then City Council approval is required. The corresponding maximum aggregate contract increase that may be approved by the Director of Public Works under Policy No. 574-01 is \$139,343. Approval of the resolution would increase the Director of Public Works’ authority to approve change orders, as necessary, up to the 10% contingency amount of \$290,266, an increase of \$150,923 over Policy No. 574-01. Increasing the contingency funds will allow staff to continue the project without delay should unforeseen circumstances resulting in increased project costs arise during the course of construction, as well as make adjustments to bid item quantities. Unforeseen conditions include such items as utility conflicts, hazardous materials, other unexpected underground conditions, etc. If the contingency funds are not used, then they will be returned to the project fund balance.

#### TDIF Funding

The Transportation Development Impact Fee (TDIF) Update approved in November 2014 identified the Bike Lane along East “H” Street as Facility 62 with an estimated project cost of \$2,186,327 (Attachment 1). Taking into account the annual Consumer Price Index (CPI) TDIF rate adjustment that occurs on October 1 each year, the current project cost is \$2,337,601.

The STM382 project cost of \$ 2,679,194.74 (capital and soft costs) exceeds the estimated project cost identified in the TDIF Update of \$2,337,601 for the following key reasons:

- The scope and costs of the LHS Improvements were added to STM382, which will be reimbursed by LHS;
- Additional landscaping scope associated with the City Arborist’s Report that determined that any improvements within ten (10) feet of existing mature tree trunks would require replacement and relocation of impacted trees (Attachment 5);
- Additional earthwork and drainage improvement costs for storm water quality measures in accordance with current storm water regulations; and
- Increased costs associated with surface improvements and traffic signal upgrades.

#### Disclosure Statement

Attachment 6 is a copy of the Contractor’s Disclosure Statement.

#### Wage Statement

The City source of funding for this project is Transportation Development Impact Fee and Otay Ranch Preserve Owner/Manager fund. Contractors bidding this project are required to pay prevailing wages to persons employed by them for the work under this project. Disadvantaged businesses were encouraged to bid in the Notice Contractors for

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various trade publications.

**DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found no property holdings within 500 feet of the boundaries of the properties which are the subject of this action. Staff is not independently aware, nor has staff been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

**LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The Bike Lane along East H Street Project supports Strong and Secure Neighborhoods and a Connected Community Strategic Goals as it will provide a major improvement to the existing bikeway system (Class 2 bike lane) along East H Street by connecting the more than half-mile gap between existing bikeway facilities along East H Street.

The Otay Ranch Preserve Access Control Project supports the Strategic Goal for a Health Community by implementing Initiative 3.2.1 (implement environmental conservation programs) in the Otay Ranch Resource Management Plan (RMP) - CFD 97-2. Un-authorized off-road activities are resulting in the loss and degradation of sensitive plan and animal species and rare habitat types, including critical habitat for the federally listed Quino Checkerspot Butterfly.

**CURRENT YEAR FISCAL IMPACT**

The following pages include a summary of project costs, and funding sources:

<b>FUNDS REQUIRED FOR CONSTRUCTION</b>	
<b>A. Contract Amount</b>	
1. STM382 Bike Lanes along East H Street	\$ 1,981,470.83
2. GG223 Otay Ranch Preserve Access Control	\$ 94,203.14
<b>Total Contract Amount</b>	<b>\$ 2,326,865.42</b>
<b>B. Contingencies</b>	
1. STM382 Bike Lanes along East H Street	\$ 223,266.23
2. GG223 Otay Ranch Preserve Access Control	\$ 66,999.77
<b>Total Contingencies</b>	<b>\$ 290,266</b>
<b>C. Staff Time, Material Testing &amp; Other Costs</b>	
1. STM382 Bike Lanes along East H Street	\$ 223,266.23
2. GG223 Otay Ranch Preserve Access Control	\$ 18,840.63
<b>Total Staff Time, Material Testing &amp; Other Costs</b>	<b>\$ 242,106.86</b>
<b>CONSTRUCTION TOTAL</b>	<b>\$ 2,859,238.28</b>

<b>FUNDING SOURCES</b>	
A. STM382 (TDIF Fund)	\$ 2,119,071.83
B. Lutheran High School Reimbursement	\$ 415,689
C. GG223 (Otay Ranch Preserve Fund)	\$ 180,043.55
D. STM382 (Appropriation from TDIF Fund)	\$ 144,435
<b>TOTAL</b>	<b>\$ 2,859,239.13</b>

Approval of the resolutions and the Reimbursement Agreement with the Lutheran High School of San Diego will initiate the construction phase of STM382 and GG223 and will appropriate \$415,689 and \$144,435, respectively, from the Capital Improvement fund and TDIF fund to STM382. There are sufficient TDIF and Otay Ranch Preserve Owner/Manager (POM) funds available to cover the construction and staff costs associated with STM382 and GG223. Therefore, there is no additional impact to these funds.

**ONGOING FISCAL IMPACT**

Upon completion of the project, the improvements will require routine City street and drainage maintenance.

**ATTACHMENTS**

1. Attachment - TDIF Facility No. 62
2. Attachment - Planning Commission Resolution No. PCC-13-004
3. Agreement - Lutheran High School of San Diego

Reimbursement Agreement for Payment of Costs to Construct Street Improvements by and Between Lutheran High School of San Diego and the City of Chula Vista signed by Lutheran High School of San Diego

4. Attachment - Contractor Bid Error Acknowledgment

Letter from PAL General Engineering, Inc. acknowledging minor mathematical errors and honoring the revised base bid price

5. Attachment - City Arborist's Tree Retainability Report
6. Attachment - California Disclosure Statement

*Staff Contact: Paul Oberbauer, Associate Civil Engineer*