

RESOLUTION NO. 21-227

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, REJECTING THE BIDS RECEIVED IN RESPONSE TO INVITATION TO BID (ITB) #21-015 FOR SOUTHARD STREET MILLING AND RESURFACING, FM #435497-2-58, PURSUANT TO SECTION 2-834(4) OF THE CODE OF ORDINANCES; DIRECTING STAFF TO RE-ADVERTISE THE PROJECT FOR PUBLIC BID; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the two bids received in response to ITB 21-015, contained discrepancies that could not be amended or adjusted to the satisfaction of the Florida Department of Transportation (FDOT) Local Agency Program (LAP); and

WHEREAS, FDOT's LAP program administers project funding on behalf of the Federal Highway Administration (FHWA) and this project is part of the Bahama Village Connectivity Project that is LAP funded; and

WHEREAS, FDOT did not concur with the local agency's decision to award a construction contract; and

WHEREAS, City staff recommends rejecting the bids received, and re-bidding the project; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That the bids received in response to ITB #21-015, for Southard Street milling and resurfacing, FM #435497-2-58, are hereby rejected pursuant to city code of ordinances section 2-834(4).

Section 2: That City Staff is directed to re-advertise the project for public bid.

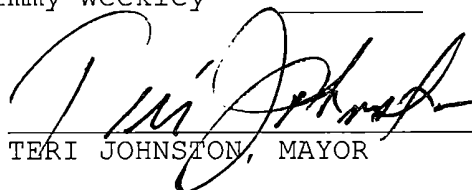
Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 19th day of October, 2021.


Authenticated by the Presiding Officer and Clerk of the Commission on 20th day of October, 2021.

Filed with the Clerk on October 20, 2021.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

1300 White Street, Key West, FL 33041-1409 (305) 809-3700

EXECUTIVE SUMMARY

Date: October 6, 2021

To: Patti McLauchlin, City Manager

From: Kelly Crowe, P.E., City Engineer

Cc: Todd Stoughton, Assistant City Manager
Mark Finigan, Finance Director
Steve McAlearney, Engineering Director

Subject: Rejection of Bids for ITB #21-015 Southard Street Milling and Resurfacing, FM #435497-2-58

ACTION STATEMENT

Reject bids for ITB #21-015 Southard Street Milling and Resurfacing, FM #435497-2-58. Direct staff to readvertise the project for public bid.

BACKGROUND

The Southard Street Milling and Resurfacing project is part of the overall Bahama Village Connectivity project that has been funded by the Florida Department of Transportation (FDOT) Local Agency Program (LAP). The original project was designed by Kimley Horn and Associates in 2011 and encompassed much of Bahama Village. The proposed improvements included new sidewalks, signage, lighting, street furniture, repaving and pavement markings. Due to public sentiment, the project scope was reduced, and staff coordinated with FDOT on a revised scope. A portion of the resulting project scope is Southard Street from Duval Street to Thomas Street with improvements that include new sidewalks, signage, repaving and pavement markings.

On June 11, 2021, city staff issued an Invitation to Bid (ITB #21-015) for the construction contract of the project. On July 8, 2021, the City Clerk opened two (2) bids: Charley Toppino and Sons, Inc (CTS) and General Asphalt, Inc. (General). CTS was the apparent lowest responsible and responsive bidder.

Staff reviewed the bids and initially discovered several potential issues which include the following:

1. An error in the bid quantities which was a significant over-estimate
2. Both prime contractors listed each other as subcontractors on their proposals
3. Significant differences between the Engineer's Cost Estimate unit prices and the proposed unit prices

City staff coordinated with the city's Legal Department and LAP staff to determine a reasonable path forward for the award of a construction contract. City staff resolved the discrepancies and agreed on a path forward to awarding a contract to the lowest responsible and responsive bidder. Ultimately LAP staff has to concur with the decision to award a construction contract.

On August 18, 2021, city staff requested concurrence to award a construction contract to Charley Toppino and Sons, Inc. (CTS) in the amount of \$669,940.90. Per their e-mail dated September 22, 2021; LAP staff did not concur with the city's request to award. City staff had a follow up phone conference with LAP staff on October 6, 2021 to discuss possible ways to move forward. LAP staff clarified that the three (3) issues cited above in aggregate was the reason for their decision not to concur and reiterated their decision outlined in the e-mail dated September 22, 2021.

PURPOSE AND JUSTIFICATION

The project is part of the original Bahama Village Connectivity project and is funded by the LAP program. Approximately 95% of the construction costs will be reimbursed by the Federal Highway Administration (FHWA). Constructing this portion of Southard Street will complete the final gap in the Southard Street improvements that were constructed in 2018 and spanned from White Street to Duval Street.

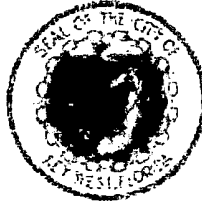
This project supports Key West Forward Priority 3: Roads and sidewalks, Goal 1: 5 year pavement plans.

FINANCIAL

Rejection of the bids does not have a direct cost impact. City staff will readvertise for public bid with the intent that LAP staff will concur and FHWA funds will be released for construction.

RECOMMENDATION

Staff recommends that the City Commission reject both bids for ITB #21-015 Southard Street Milling and Resurfacing, FM #435497-2-58 and direct staff to readvertise the project for public bid.



THE CITY OF KEY WEST

1300 White Street Key West, FL 33040

August 18, 2021

Ms. Xiomara Nunez, MBA, PMP
District VI Local Program Administrator
Florida Department of Transportation
1000 NW 111th Avenue
Miami FL, 33172

Re: Southard Street Milling and Resurfacing, FM 435497-2-58 Request for Concurrence

Ms. Nunez,

Pursuant to the Notice to Proceed the City of Key West received from the Florida Department of Transportation (FDOT) on June 3, 2021 to advertise and competitively bid the above referenced project, city staff duly advertised the project in accordance with the guidance provided in the Local Agency Program (LAP) Manual Chapter 21.

On July 8, 2021, the City Clerk opened two (2) bids: Charley Toppino and Sons, Inc and General Asphalt, Inc. It was discovered that there were two issues with the bids that needed to be addressed prior to soliciting concurrence from FDOT. The first issue was a significant error in the quantities for both 4-inch and 6-inch sidewalk. The second issue was in relation to both prime contractors acting as subcontractors on the others' proposal. City staff coordinated with our Legal Department and LAP staff to determine a reasonable path forward for the award of a construction contract.

With respect to the quantity error, we determined that it was reasonable to allow the contractors to revise their extended prices for the items in error and update the total price. They were asked to hold their original bid unit prices. In addition, the bidders were given the opportunity to adjust their mobilization cost, but only to the proportion of their original bid, i.e., if the original mobilization cost was 10% of the original bid, it could not be lower than 10% of the revised cost on the revised bid.

In regard to the second issue, after conferring with LAP staff, city staff coordinated with our Legal Department and determined that adding a Bid Certification Form that the contractors would execute and notarize would further support the Non-Collusion Affidavit that was part of the original bid package.

Key to the Caribbean – Average yearly temperature 77° F.

Both contractors agreed to update the Bid Proposal Form and execute the Bid Certification Form. City staff has reviewed the Bid Proposal Forms and determined that they were completed in accordance with the specified terms. In total, the City has analyzed the bids and determined the bidders were responsive and responsible. All required information was provided.

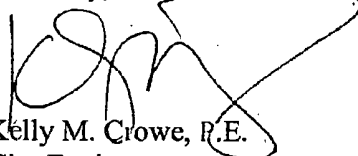
The City hereby requests concurrence to award the contract to the lowest responsive and responsible bidder; Charley Toppino and Sons, Inc. in the amount of \$669,940.90. City staff has reviewed the bids versus the Engineer's estimate and although the bids are approximately 40% higher than the Engineer's estimate, we believe the bids are within reason. It should be noted that the bids received were within 5.9% of each other.

There are several factors that contributed in the higher-than-expected prices including:

- Logistical Constraints. Key West is roughly 120 miles from the mainland where many of the construction materials are sourced. Material costs are generally higher down here due to transportation costs.
- Recent spikes of inflation in construction materials: Fuel and material costs have risen steadily since between the time the estimate was prepared and when the bids were received.
- Mobilization costs were a large factor on the price differences. The Engineer's estimate was only 5% of the total cost whereby industry standards are approximately 10% of the total costs. The mobilization costs from each contractor was determined to be reasonable and within industry standards.
- All of the work will be completed within the Historic District. Additional care and protection of historic resources is required per the contract which elevated the costs for sidewalk replacement. The contractors were cautioned during the mandatory pre-bid meeting of the care required adjacent to historic structures and that hand removal of concrete may be necessary.

As requested, we have prepared a bid analysis providing a comparison between both bidders and the Engineer's estimate. Please feel free to contact me by e-mail at kcrowe@cityofkeywest-fl.gov or by phone at (305) 809-3967 if you have any questions.

Sincerely,



Kelly M. Crowe, P.E.
City Engineer

Cc: Alina Brito, FDOT, LAP Contract Coordinator
Steve McAlearney, City of Key West, Director of Engineering
Carolyn Sheldon, City of Key West, Senior Grants Manager

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