

STAFF REPORT



ITEM NO. 24

CITY OF OCEANSIDE

DATE: January 10, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Public Works Department

SUBJECT: **APPROVAL TO AWARD A CONTRACT IN THE AMOUNT OF \$6,896,679 TO EDGE DEVELOPMENT INC. FOR THE FIRE STATION NUMBER 7 PROJECT, APPROPRIATE \$900,000 FROM GENERAL FUND RESERVES AND CONDUCT A BID PROTEST HEARING**

SYNOPSIS

Staff recommends that the City Council approve the award of a contract in the amount of \$6,896,679 to EDGE Development, Inc., of Temecula for the Fire Station Number 7 project located on the northerly side of Mission Avenue easterly of Foussat Road; appropriate \$900,000 from General Fund Reserves to cover the amount of the contract, and authorize the City Manager to execute the agreement upon receipt of all supporting documents; and conduct a bid protest hearing.

BACKGROUND

Temporary Fire Station Seven is currently co-located with the Fire Training Facility in the Water Department Utility yard at 110 Jones Road. Fire Station Seven houses a variety of resources cross-staffed by a single Fire Company consisting of a Fire Captain, Fire Engineer and Firefighter/Paramedic. The proposed site for the new Fire Station facility is along Mission Ave just east of Foussat Road. Located at a road nexus, this location provides immediate access to State Highway 76, Foussat Road, a major north/south corridor with access to neighborhoods north of the San Luis Rey River, and to Mission Ave.

Because of the centralized location of this site the new station has been designed to accommodate additional crews that the Fire Department anticipates will be needed to meet steadily increasing demands for service. The design accommodates a total of 11 personnel staffing an engine-company, a truck-company, a Battalion Chief unit and a paramedic ambulance unit. When it opens the new station will house the crew from the temporary station as well as the Suppression Battalion Chief who will relocate from quarters currently located at Fire Station Three.

On December 15, 2004, the City Council approved a professional services agreement with Jeff Katz Architecture of San Diego, in the amount of \$360,000 for preliminary and final engineering services for the Fire Station 7 project. On September 21, 2005, the City Council approved the conceptual plans for the fire station, which were essentially the same as the final plans. On July 24, 2006, the Planning Commission approved the conceptual plans. The Building Division has reviewed and approved the final building plans.

On October 11, 2006, the City Council approved the plans and specifications for the Fire Station Number 7 project and authorized the Director of Public Works to call for bids. On December 12, 2006, the bids were publicly opened. Eleven bids were received and are summarized in Exhibit A. The lowest responsible bidder is EDGE Development of Temecula with a bid of \$6,896,679. The successful bidder's credentials have been researched and found to meet City requirements. The contract documents are on file in the Capital Improvements Division of the Public Works Department.

ANALYSIS

Fire Station 7 will be a one-story fire station comprising 18,362 square feet, capable of housing two engine companies, a medic company and a battalion chief for a total of eleven personnel housed at the site on each shift. There are also four double bays and one single bay for fire apparatus. The exterior style selected by the Fire Department is Mission style as appropriate for a station within the Mission Valley area.

The current project schedule is as follows:

City Council awards construction contract:	January	2007
Construction begins:	March	2007
Construction ends:	June	2008

On December 15, 2006, staff received a letter of protest from an attorney representing Jaynes Corporation of California – copy attached – the second low bidder, alleging that EDGE Development Inc., the lowest bidder, had failed to follow the public bid procedure. Staff has reviewed the pertinent sections of the California Public Contract Code and has found the bid submitted by EDGE Development Inc. to be a valid bid. On January 2, 2007, in a letter to Jaynes Corporation, staff notified them of its finding and invited their representative to attend the January 10, 2007 City Council meeting and address any concerns they may have regarding this matter. Staff does not consider the Bid Protest to have any merit.

FISCAL IMPACT

The construction cost of the building is \$6.9 million plus an additional \$700,000 for furnishings and construction management for a total cost of \$7.6 million. The Fire Station 7 Construction project (503.835272) in the Capital Improvement Program was approved for \$6 million in new funding from the General Fund in FY 06-07 and an additional \$2 million from the General Fund in FY 07-08, plus a carry forward of \$91,441 from FY 05-06. In order to cover the \$6.9 million contract to Edge Development, Inc., it is requested that \$900,000 be appropriated from General Fund Reserves. Therefore, there are sufficient funds to award the contract.

After approval of the \$6 million from the General Fund in FY 06-07, it was discovered that the project is eligible for a \$3.5 million U.S. Housing and Urban Development (HUD) Section 108 loan, which, if received as anticipated, will reduce the General Fund's overall obligation to \$4.5 million for the entire project. The total available identified funding is \$8 million which will provide \$1.1 million for the furnishings, construction management and contingencies.

On December 15, 2006, staff received a letter of protest from an attorney representing Jaynes Corporation of California – copy attached – the second low bidder, alleging that EDGE Development Inc., the lowest bidder, had failed to follow the public bid procedure. Staff has reviewed the pertinent sections of the California Public Contract Code and has found the bid submitted by EDGE Development Inc., to be a valid bid. On January 2, 2007, in a letter to Jaynes Corporation, staff notified them of its finding and invited their representative to attend the January 10, 2007 City Council meeting and address any concerns they may have regarding this matter. Staff does not consider the Bid Protest to have any merit.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

On September 15, 2004, the conceptual plans were presented to the Police and Fire Commission, which approved the design. On July 24, 2006, the conceptual plans were presented to the Planning Commission, which also approved the design. The conceptual plans were also presented to the Loma Alta Neighborhood Association, which provided a letter of support.

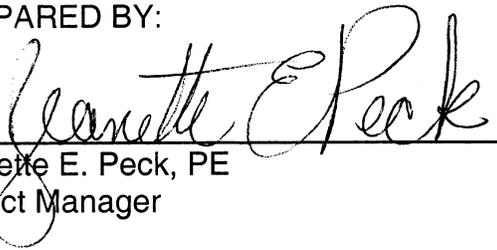
CITY ATTORNEY'S ANALYSIS

The bid documents were previously reviewed by the City Attorney and approved as to form. The contract must be awarded to the lowest responsible bidder. The Public Contract Code defines "responsible bidder" as a bidder who has demonstrated the attributes of trustworthiness as well as quality, fitness, capacity and experience to satisfactorily perform a public works contract. The City Council also has the discretion to reject all bids and re-advertise.

RECOMMENDATION

Staff recommends that the City Council approve the award of a contract in the amount of \$6,896,679 to EDGE Development, Inc., of Temecula for the Fire Station Number 7 project located on the northerly side of Mission Avenue easterly of Foussat Road; appropriate \$900,000 from General Fund reserves to cover the amount of the contract, and authorize the City Manager to execute the agreement upon receipt of all supporting documents; and conduct a bid protest hearing.

PREPARED BY:



Jeanette E. Peck, PE
Project Manager

SUBMITTED BY:



Barry E. Martin
Interim City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Interim Deputy City Manager

Peter Weiss, Public Works Director

Jeff Bowman, Interim Fire Chief

Nita McKay, Financial Services Director









FIRE STATION NUMBER 7 PROJECT

BID TABULATION

<u>Bidder</u>	<u>Address</u>	<u>Bid Amount</u>
1. EDGE Development, Inc.	Temecula, CA	\$6,896,679.00
2. Jaynes Corporation	San Diego, CA	\$6,979,992.00
3. Solpac Construction	San Diego, CA	\$7,371,188.00
4. C. W. Driver	San Diego, CA	\$7,376,000.00
5. Echo Pacific Construction	Escondido, CA	\$7,436,472.00
6. C. E. Wylie Construction	San Diego, CA	\$7,648,650.00
7. Erickson Hall Construction	Escondido, CA	\$7,998,000.00
8. P. H. Hagopian Contractor	Orange, CA	\$8,058,419.00
9. Cox Construction	Vista, CA	\$8,179,000.00
10. Chegini Enterprises	Irvine, CA	\$8,214,717.00
11. Dumarc Corporation	Placentia, CA	\$8,435,570.91

SCHWARTZ SEMERDJIAN HAILE
BALLARD & CAULEY LLP

Attorneys at Law

KEVIN T. CAULEY

Direct dial (619) 699-8331
e-mail: kevin@sshbclaw.com

December 15, 2006

VIA OVERNIGHT MAIL

City of Oceanside
Public Works Department
Engineering Division
Attention: Jeanette Peck
300 North Coast Highway
Oceanside, CA 92054

Re: Our Client: Jaynes Corporation of California
Project: City of Oceanside Fire Station No. 7
Project No.: 503.835272

Dear Ms. Peck:

This law firm has been retained by Jaynes Corporation of California (hereinafter "Jaynes Corporation") to submit a bid protest with respect to evaluation of the bids received on the above-referenced project. It is our understanding that Edge Development, Inc. (hereinafter "Edge") is the apparent low bidder. However, an examination of the bid submitted by Edge reveals that it is "non-responsive" because it has not provided for a subcontractor to provide the vehicle exhaust air purification system that is required by the specifications to be installed at the project. Jaynes Corporation has listed Aair Purifications Systems as the subcontractor to perform the work for the vehicle exhaust purification system. As a result, the bid of Jaynes Corporation is responsive and the bid of Edge is non-responsive.

The amount of work to be done on the exhaust system exceeds one-half of one percent of the total bid. As such, the subcontractor to do the work must be listed. The bid of Edge does not list a subcontractor who will be performing that work. A copy of the Edge bid is attached for your convenience.

In the event that Edge asserts it is using its HVAC subcontractor Forbes Construction to provide the vehicle exhaust air purification system we still believe the bid is non-responsive. Initially, paragraph 1.06 of the Vehicle Exhaust Removal System lists bidder qualifications which must be met. The bidder must be established in the business of Diesel Exhaust Removal Systems for a minimum of five (5) years. The bidder must also show proof that their exhaust system had been field tested by supplying a list of not less than 15 fire department references.

Jeanette Peck
December 15, 2006
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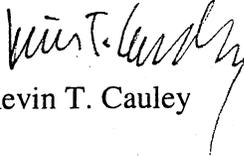
Aair Purification Systems is the only named subcontractor who can provide the system required by the specifications and who has the bidder qualifications. Any system to be used by Forbes Construction will be "or equal" at best. If Forbes Construction intends to use a Ventair unit, it can meet some aspects of the specification but not all. A substitution would have to be allowed in order use that system. There is no provision for an ISO9001 manufacturer and the Ventair unit does not have a Nomex liner for the grabber. Additionally, the Ventair system does not have a 100% independent capture testing done. These are just a few of the items which are required by the specification and apparently not provided in the Edge bid.

Jaynes Corporation is the lowest responsive bidder to have the appropriate installer to provide the vehicle exhaust system as required by the specifications. Attached is the bid and subcontractor information provided by Edge and Jaynes Corporation. Clearly, Edge does not name a vehicle exhaust subcontractor and Jaynes Corporation does.

It is clear based on the information provided and that specifications made available to all parties by the City of Oceanside that the bid of Edge is not responsive. Please confirm that the City of Oceanside will find the bid of Edge non-responsive and award the project to the lowest responsive bidder, Jaynes Corporation. I look forward to hearing from you at your earliest opportunity.

Sincerely,

SCHWARTZ SEMERDJIAN HAILE
BALLARD & CAULEY LLP


Kevin T. Cauley

KTC/dka
Attachments

cc: Jaynes Corporation of California



December 20, 2006

Jeannette Peck
City of Oceanside
Public Works Department
Engineering Division
300 North Coast Highway
Oceanside, CA 92054

SERIAL NO: 122006-854

Re: Project: City of Oceanside Fire Station No. 7
Project No: 503.835272
Low Bidder: EDGE Development, Inc.
Disgruntled Protester: Jaynes Corporation of California

Dear Jeannette,

This letter is in response to our phone conversation regarding the bid protest of the Oceanside Fire Station No. 7.

We have reviewed the letter from Jaynes Corporation's attorney. It is unfortunate that a company finds it necessary to manufacture a protest that is not only frivolous, but also has absolutely no merit. The bottom line is that EDGE Development, Inc. out worked and out bid Jaynes Corporation for this job. We have the lowest responsible bid and have done everything in conformance with the plans, specifications and public bidding practices.

Please rest assured that EDGE Development, Inc. has the job covered according to the documents. Our listing on HVAC clearly covers the vehicle exhaust system as it is found in the same division. Enclosed is a copy of the HVAC bid covering this work. As far as the ability to perform same, EDGE Development, Inc. is committed to perform to the documents.

EDGE Development, Inc. and its bond, stands behind our bid 100% to complete the work in accordance with all of the bid documents.

In closing, I can tell you we are very excited to be working with the City of Oceanside on this project. We have assigned one of our VP's to oversee this project who is a 45 year resident of Oceanside. He is also very excited to be part of such a special job in his own backyard.

Please contact me on my cell phone, 951-970-9461, should you have any questions pertaining to the above.

Sincerely
EDGE Development, Inc.



Steve Prophet
COO / Principal

Enc.

SP/cln