



# City of Chula Vista

## Staff Report

**File#:** 14-0081, **Item#:** 11.

CONSIDERATION OF WAIVING IRREGULARITIES IN THE BID RECEIVED FOR THE "PAVEMENT MAJOR REHABILITATION FISCAL YEAR 2012/2013 (OVERLAY) (STM373)" PROJECT PER CITY CHARTER SECTION 1009

RESOLUTION NO. 2014-045 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING BIDS, WAIVING THE ERROR IN THE LOW BID FROM ATP GENERAL ENGINEERING CONTRACTORS AS IMMATERIAL, AWARDING A CONTRACT FOR THE "PAVEMENT MAJOR REHABILITATION FISCAL YEAR 2012/2013 (OVERLAY) (STM373)" PROJECT TO ATP GENERAL ENGINEERING CONTRACTORS IN THE AMOUNT OF \$2,917,695.50, APPROPRIATING \$50,406 TO THE SUPPLIES AND SERVICES CATEGORY WITHIN THE PROPOSITION 1B HIGHWAY SAFETY FUND, APPROPRIATING \$478,610 TO CIP STM373 OF PROPOSITION 1B HIGHWAY SAFETY FUND'S FISCAL YEAR 2013/2014 BUDGET BASED ON UNANTICIPATED REVENUES, REDUCING THE STM372 AND STM379 CIP BUDGETS BY \$470,000 AND \$322,410 RESPECTIVELY IN TRANSNET FUNDS AND APPROPRIATING THE EQUIVALENT AMOUNTS TO STM373, WAIVING CITY COUNCIL POLICY NO. 574-01 AND AUTHORIZING THE EXPENDITURE OF ALL AVAILABLE CONTINGENCY FUNDS NOT TO EXCEED \$437,654.33 (4/5 VOTE REQUIRED)

### **RECOMMENDED ACTION**

Council conduct the public hearing and adopt the resolution.

### **SUMMARY**

On January 29, 2014, the Director of Public Works received sealed bids for the "Pavement Major Rehabilitation FY12/13 (Overlay) (STM373)" project. The project consists of the removal and replacement of failed asphalt concrete pavement (dig-outs), placement of pavement reinforcement fabric and the application of asphalt concrete (AC) overlay on various streets in the City. Scope of work on this project also includes the replacement of pedestrian ramps, traffic signal loop detectors, traffic control, striping and markings, and other miscellaneous items of work necessary to complete the project.

### **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 1(c) categorical exemption pursuant to Section 15301, Existing Facilities, of the State CEQA Guidelines because the project consists of maintenance or repair work to existing public street facilities involving negligible or no expansion of an existing use. Thus, no further environmental review is necessary.

**BOARD/COMMISSION RECOMMENDATION**

Not applicable.

**DISCUSSION**

The Public Works Department utilizes a Pavement Management System (PMS) and pavement preservation program to develop the priority list of streets to rehabilitate and preserve throughout the city. This preservation program is designed to extend the roadway life and serviceability through the removal and replacement of deteriorated sections of pavement (dig-outs) and the application of various types of surface treatments. The application of the asphalt concrete overlay surface treatment on the street segments shown in Attachment 1 will complete the overall maintenance strategy on these street segments. These street segments are on the SANDAG approved list for Major Pavement Rehabilitation (CHV48) and funded by TransNet Congestion Relief revenues.

In addition to applying the asphalt overlay, the scope of work also includes the removal or replacement of pedestrian ramps, dig-out and repair of asphalt pavement, installation of a pavement reinforcing mat, weed removal and treatment with herbicide, crack filling, pavement striping and markings, replacement of damaged traffic signal loop detectors, traffic control, protection and restoration of existing improvements and other miscellaneous work necessary to successfully complete the project.

On January 29, 2014, the Director of Public Works received six (6) bids for the “Pavement Major Rehabilitation FY12/13 (Overlay) (STM373)” project. The following bids were received:

	<b>CONTRACTOR</b>	<b>SUBMITTAL RESULTS</b>	<b>TOTAL SUBMITTED</b>
1	ATP General Engineering Contractors - Chula Vista, CA	All requirements met. \$164.00 mathematical error. Actual bid total is \$2,917,883.00.	\$2,917,719.00
2	SRM Contracting and Paving Co. - San Diego, CA	All requirements met	\$3,081,306.00
3	TC Construction Co., Inc. - Santee, CA	All requirements met	\$3,147,315.00
4	PAL General Engineering Contractors - San Diego, CA	All requirements met	\$3,158,928.00
5	Hazard Construction - San Diego, CA	All requirements met	\$3,383,940.00
6	Portillo Concrete, Inc. - Lemon Grove, CA	All requirements met	\$3,381,473.00

The low bid submitted by ATP General Engineering Contractors is below the Engineer’s estimate of \$4,070,687 (or approximately 28.32% below the Engineer’s estimate). The biggest factor in the price

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difference is the decreasing oil prices, a key ingredient in the manufacture of asphalt concrete. The average cost of asphalt concrete per ton in this project is \$75 compared to recent bids of about \$100 per ton several months ago.

Staff reviewed the low bid and determined the bid package is complete but with a minor mathematical error of \$164 favoring the City. In consultation with the City Attorney's office, staff determined that the minor irregularity does not alter the order of the bids and award of the contract should proceed. Furthermore, the City Charter Section 1009 states "The City Council may waive any defects in any bid to the extent it finds at a public hearing held for that purpose that it is necessary to do so for the benefit of the public." This action benefits the City by saving \$163,423, the cost difference between the two lowest bidders.

Staff contacted the low bidder, ATP General Engineering Contractors, and informed them of the discrepancy. ATP General Engineering Contractors agreed to honor the submitted bid price of \$2,917,719. In order to simplify the clerical error made, ATP will allow a \$0.05 decrease to the unit price for bid item #12. This will bring the new total bid amount to \$2,917,695.50 (Attachment 2).

The Contractor has satisfactorily performed construction projects of similar scope for the City in the past and has determined their work to be satisfactory. The Contractor's License No. 502506 is current and active. Staff recommends awarding a contract in the amount of \$2,917,695.50 to ATP General Engineering Contractors.

Additionally, for this contract the City Council Policy No. 574-01 will only allow the Director of Public Works to authorize a maximum cumulative change order(s) amount of \$73,000 plus 5% of the original contract over \$1,000,000 (\$168,884.78) without City Council prior approval. The proposed resolution would increase the Director of Public Works' cumulative change order authority to approve change orders, as necessary, up to the 15% contingency amount of \$437,654.33, which is an increase of \$268,769.55 over Policy No. 574-01 limitations.

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, unexpected underground conflicts, etc.

### Proposition 1B Funds

In November of 2010, the prime contractor for CIP STL357, Pavement Minor Rehabilitation project, had their subcontractor apply a chip seal to various streets within the city. However, in April of 2011, staff noticed the chip seal showing signs of major flushing (this is where the asphalt bleeds through the chip seal leaving a shiny slippery appearance on the surface). After many failed attempts to get the streets repaired by the prime contractor, the City put out a contract to fix the worst of the areas that were deemed to be unsafe. This repair contract was put out to bid in April of 2013 at the cost of approximately \$200,000 (STL357, STL395). The City filed suit against the prime contractor to

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recover the cost of this repair work and other additional repair work required. After several mediation hearings, the City settled out of court for a total of \$300,000. A portion of these funds will be used to pay attorney costs of \$50,406. The remaining \$249,594 will be added to CIP STL373. In addition, \$229,016 in interest earnings from the Proposition 1B Highway Safety Fund will be added to CIP STL373. The available Proposition 1B funds must be spent by June 30, 2014.

Disclosure Statement

Attachment 4 is a copy of the Contractor's Disclosure Statement.

Wage Statement

The source of funding for this project is TransNet and State Proposition 1B. Contractors bidding this project are not 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 various trade publications.

**DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found that Councilmember Pamela Bensoussan has real 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 goal of the "Pavement Major Rehabilitation FY12/13 (Overlay) (STM373)" project is to support the Strong and Secure Neighborhood strategy identified in the City's Strategic Plan. The maintenance and rehabilitation of public infrastructure is a key City function in providing a safe and efficient roadway system for residents, businesses and visitors alike.

**CURRENT YEAR FISCAL IMPACT**

The following is a summary of anticipated project costs:

<b>FUNDS REQUIRED FOR CONSTRUCTION</b>	
A. Contract Amount	\$2,917,695.50
B. Contingencies (Approx. 15%)	\$ 437,654.33
C. Staff Time, Material Testing & Other Costs	\$ 437,654.33
<b>CONSTRUCTION TOTAL</b>	<b>\$3,793,004.16</b>

<b>FUNDING SOURCES (ROUNDED)</b>	
A. STM373 (TransNet Funds)	\$2,521,985
B. Proposition 1B Funds	\$ 478,610
C. STM372 (TransNet Funds)	\$ 470,000
D. STM379 (TransNet Funds)	\$ 322,410
<b>TOTAL</b>	<b>\$3,793,005</b>

There is no additional impact to the TransNet fund as sufficient funding is available to cover the program costs associated with the FY 2013/2014 CIP program. TransNet funds are being transferred from STM372 and STM379 to cover construction and staff costs associated with STM373, including Proposition 1B funds. The impact to the Proposition 1B Highway Safety Fund is that the available fund balance will be expended. The balance of funds in STM379, "Pavement Major Rehabilitation FY2013/2014", will then be used to rehabilitate an additional list of streets under a separate contract. The available Proposition 1B funds must be expended by June 30, 2014. There is no direct impact to the General Fund for this project.

**ONGOING FISCAL IMPACT**

Upon completion of the project, the improvements will require only routine City street maintenance. Since the improvements are anticipated to increase the life of the streets included, there should be a positive long term fiscal impact.