



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: SEPTEMBER 1, 2009

ITEM NUMBER:

**SUBJECT:** REHABILITATION OF TUSTIN AVENUE (15<sup>TH</sup> STREET TO 17<sup>TH</sup> STREET) – CITY PROJECT NO. 09-15

**DATE:** AUGUST 20, 2009

**FROM:** PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

**PRESENTATION BY:** PETER NAGHAVI, DIRECTOR, DEPARTMENT OF PUBLIC SERVICES

**FOR FURTHER INFORMATION CONTACT:** ERNESTO MUÑOZ, CITY ENGINEER  
(714) 754-5335

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## **RECOMMENDATION:**

1. Adopt plans, specifications, and working details for the rehabilitation of Tustin Avenue (15<sup>th</sup> Street to 17<sup>th</sup> Street), City Project No. 09-15.
2. Waive the minor irregularities in the bid submitted by C.J. Concrete Construction, Inc. and award a construction contract to C.J. Concrete Construction, Inc., 10142 Shoemaker Avenue, Santa Fe Springs, California, 90670, in the amount of \$555,091.25.
3. Authorize the Mayor and the City Clerk to execute the Public Works Agreement.

## **BACKGROUND:**

Based on staff's observations and recommendations from the City's Pavement Management System, Tustin Avenue (15<sup>th</sup> Street to 17<sup>th</sup> Street) is in need of pavement rehabilitation at this time. City records indicate that this segment of Tustin Avenue was originally constructed in 1958.

The work to be performed under this contract include removal and disposal of damaged concrete improvements and roadway sections; construction of asphalt pavement, concrete sidewalk, curb and gutter, cross gutter and driveway; installation of traffic striping and marking; and all other pertinent and incidental work as required.

## **ANALYSIS:**

On July 9, 2009, the City Clerk received and opened ten (10) bids for this project. C.J. Concrete Construction, Inc. was the apparent low bidder with a bid proposal of \$555,091.25. The Engineer's estimate was \$764,395.00; and the average of the ten (10) bids received for this project amounted to \$659,217.97.

An analysis of the bids indicates that the apparent low bidder submitted a proposal that is 27 percent (27%) lower than the Engineer's estimate. The variance between the low bidder and the Engineer's estimate may be attributed to the highly competitive conditions in the construction industry at this time. The Bid Abstract is included as Attachment "1".

The license and references of C.J. Concrete Construction, Inc. were checked and staff has found them to be in good standing. C.J. Concrete Construction, Inc. is currently under contract to perform the construction work for the Parkway Concrete Repair and New Sidewalk Construction Project currently in progress.

On July 17 and August 11, 2009, letters were submitted from the Southern California District Council of Laborers protesting the bid submitted by C.J. Concrete Construction, Inc. The basis of the protest was directed at the Bid Proposal, Page P-4, which requires that a list of references be submitted by the bidder for public works construction projects which the bidder has completed, or is currently working on, for the last 24 months. C.J. Concrete Construction, Inc. submitted the required list of references; however, the list reflected projects prior to the last 24 months.

This is considered a minor irregularity in the bid proposal, which if waived by the City will not change the total cost of their proposal, nor will it have an effect on the final order of bids received by the City Clerk. The bid documents include a request for references to allow staff to fully evaluate the bidder's background and experience for the proposed project. If the references are inadequate, the City has the discretion to request additional references. In this case, upon the City's request the bidder provided additional references that included several projects within the 24 month window. After reviewing these references, City staff is satisfied that C.J. Concrete Construction, Inc. demonstrates the necessary skill and expertise to perform the proposed work.

The City may waive minor irregularities relative to the responsiveness of a bid, as long as it does not result in the bid process being unfair or give the low bidder an unfair advantage over the other bidders. Upon consideration of the above factors, the lack of references submitted in the original bid that fall within the 24 month window may be deemed a minor irregularity as it does not give the low bidder an unfair advantage over the other bidders nor does it create an unfair bid process. Therefore, staff recommends that the minor irregularity for this proposal be waived.

#### **ALTERNATIVES CONSIDERED:**

An alternative to this Council action would be to reject all the bids. If all the bids were rejected, the City would need to readvertise or cancel the project. Staff does not recommend this alternative as it would delay the project by several months. The Council may also choose not to waive the minor irregularity and award the contract to the second low bidder. Staff does not recommend this alternative as it will cost the City an additional \$42,438.75 to complete the same scope of work, when the Council has the option to waive minor bid irregularities such as the one on C.J. Concrete Construction, Inc. bid.

#### **FISCAL REVIEW:**

Funding for this project is available from appropriated Measure "M" turn back revenues.

#### **LEGAL REVIEW:**

C.J. Concrete Construction, Inc. has furnished the necessary bonds and insurance, which have been approved as to form by the City Attorney. After the award and subsequent execution of the contract, a "Notice to Proceed" will be issued.

**CONCLUSION:**

The advertisement and bid opening for the rehabilitation of Tustin Avenue (15<sup>th</sup> Street to 17<sup>th</sup> Street), City Project No. 09-15 has been completed. It is recommended that the City Council adopt the plans, specifications, and working details for said project; waive the minor irregularities in the bid submitted by C.J. Concrete Construction, Inc. and award the contract to the apparent low bidder C.J. Concrete Construction, Inc. in the amount of \$555,091.25; and authorize the Mayor and the City Clerk to execute the Public Works Agreement.

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ERNESTO MUÑOZ  
City Engineer

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PETER NAGHAVI, DIRECTOR  
Department of Public Services

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MARC R. PUCKETT  
Director of Finance

ATTACHMENTS:    "1"    [Bid Abstract](#)  
                      "2"    [Letters from Southern California District Council of Laborers, Organizing Department](#)  
                      "3"    [Letters from City of Costa Mesa](#)

DISTRIBUTION:    City Manager  
                      Assistant City Manager  
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