



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Hans F. Larsen

**SUBJECT: FEDERAL RECOVERY ACT TIER II  
RESURFACING PROJECT**

**DATE:** 03-22-10

Approved

Date

3/25/10

**COUNCIL DISTRICTS:** Citywide

## RECOMMENDATION

- a) Report on bids and award a construction contract for the San Jose Various Streets Resurfacing and Rehabilitation Project to the low bidder, Top Grade Construction, Inc. in the amount of \$5,167,464.
- b) Approve a five percent (5%) contingency in the amount of \$258,375.

## OUTCOME

Award of this construction contract to Top Grade Construction Inc. will allow resurfacing of 10.5 miles of City arterial and collector streets utilizing Federal Recovery Act Tier II funding. Resurfacing these streets will improve their structure and ride quality and extend the useful life of the streets in order to defer more costly reconstruction. Approval of a five percent (5%) contingency will provide funding for any unanticipated work necessary for the proper construction and/or completion of the Project. The recommended action also supports the Transportation and Aviation Services City Service Area goal to *Preserve and Improve Transportation Assets and Facilities*.

## BACKGROUND

On February 17, 2009, President Obama signed the federal economic stimulus bill known as the American Recovery and Reinvestment Act of 2009 (Federal Recovery Act). The Santa Clara Valley Transportation Authority, as the agency responsible for distributing the funds as they become available at the Federal level, allocated funding in the amount of \$2,718,000 for Tier II projects to the City of San José. In addition, \$3,398,534 remaining from the Tier I project due to favorable bid results was added into the Tier II budget. As a result, the total amount of Federal funds available for Tier II projects is \$6,116,534. This total amount is programmed, along with \$150,000 in City funding to resurface 10.5 miles of City streets.

Following the Federal guidelines, a list of City streets in need of resurfacing was developed and prioritized using the following criteria:

- Streets designated as eligible for Federal funding
- Streets in the worst condition that are in need of resurfacing
- Streets that require minimum Right of Way or other permits as required by Federal and State guidelines to meet the deadlines associated with Federal Recovery Projects
- Streets not affected by current or future street-related projects
- Appropriate distribution of street maintenance throughout the City

Attachment A contains the list of streets designated to receive treatment utilizing grant funding under the American Recovery and Reinvestment Act.

**ANALYSIS**

**Review of Bids**

Bids for this project were received on March 4, 2010, with the following results:

Contractor	City	Total Project Cost	Variance Amount	% Over / Under Total Budget
Wattis Construction Co. Inc.	San Jose, CA	\$6,314,468.25	\$948,786.25	17.68%
O.C. Jones & Sons, Inc.	Berkeley, CA	\$6,042,054.00	\$676,372.00	12.61%
Granite Rock Company DBA Pavex Construction Company	San Jose, CA	\$5,611,959.95	\$246,277.95	4.59%
Gallagher & Burk, inc.	Oakland, CA	\$5,418,496.00	\$52,814.00	0.98%
<b>ENGINEER'S ESTIMATE</b>		<b>\$5,365,682.00</b>		
MCK Services, Inc.	Martinez, CA	\$5,341,377.26	(\$24,304.74)	-0.45%
O'Grady Paving, Inc	Mountain View, CA	\$5,333,456.70	(\$32,225.30)	-0.60%
Granite Construction Company	Santa Clara, CA	\$5,276,472.53	(\$89,209.47)	-1.66%
G. Bortolotto & Co., Inc	San Carlos, CA	\$5,251,019.98	(\$114,662.02)	-2.14%
Top Grade Construction, Inc.	Livermore, CA	\$5,167,464.50	(\$198,217.50)	-3.69%

The bid documents were evaluated and the apparent low bid submitted by Top Grade Construction, Inc. is 3.7% under the Engineer's Estimate. The Engineer's Estimate for this

project is \$5,365,682, which is based on bids received from similar past projects and current estimated construction prices.

### **DBE Program Compliance**

As part of the federal funding requirements for the project, compliance with the Federal Department of Transportation's Disadvantaged Business Enterprise (DBE) program is required. The DBE program has several different components.

One component of the DBE program requires the contractors to provide a variety of information regarding the use of DBEs and underutilized DBEs (UDBEs) on the project, and to comply with a "goals/good faith efforts" requirement. On March 5, 2010, staff requested DBE/UDBE information from the three (3) low bidders to evaluate their respective compliance with the established DBE/UDBE goals and good faith efforts requirement. On March 10, 2010, the information requested was received from the three (3) low bidders. After carefully evaluating the information, Office of Equality Assurance staff reached the following conclusion regarding the low bidder's compliance with the UDBE goals and use of DBEs:

In accordance with Code of Federal Regulations, Title 49, Section 26, a UDBE goal of 16% was established for this project. Top Grade Construction Inc. (Top Grade) did not meet the UDBE goal but attained 5.61% UDBE participation. Additionally, Top Grade attained 9.48% in DBE participation. Top Grade submitted documentation that demonstrated that good faith efforts were made to solicit UDBE participation.

### **Project Contingency**

Council Policy provides for a standard contingency of five percent (5%) on public works projects. The funding budgeted for this project is sufficient to provide for the recommended 5% contingency of \$258,375.

Construction will begin in June 2010 with completion expected in April 2011 pending advantageous weather conditions and contractor availability.

### **EVALUATION AND FOLLOW-UP**

The project is currently within budget and on schedule with a projected completion in April 2011. No additional follow up actions with the Council are expected at this time.

### POLICY ALTERNATIVES

Not applicable.

### PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. To solicit contractors this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record* and bid packages for this construction project were also provided to various contractor organizations and builders' exchanges.

In addition, when the project commences, the contractor, as stated in the specifications, will provide advance notification regarding working hours, duration of project, and any appropriate schedule and lane closures to affected businesses and residents. To inform traveling motorists of upcoming construction activities and potential traffic delays, changeable message signs may be used on selected streets stating the schedule dates and time for work to occur on the street.

### COORDINATION

This memo has been coordinated with the City Attorney's Office, Public Works Department/Office of Equality Assurance and the City Manager's Budget Office.

### FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery sections in that it will spur construction spending in our local economy. The project is also consistent with the Council-approved Budget Strategy General Principles section in that it protects vital core City services.

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: (Engineer's Estimate)

Project Delivery	\$ 690,695
Construction	\$ 5,167,464
Contingency	\$ 258,375
<b>Total Project Cost</b>	<b>\$ 6,116,534</b>

2. COST ELEMENT OF CONSTRUCTION CONTRACT:

Adjustment of Utilities	\$ 270,215
Traffic Control	\$ 56,650
Slurry Seal Application	\$ 68,580
Asphalt Concrete Work	\$ 4,009,218
Concrete Work	\$ 491,700
Traffic Striping and Pavement Markings	\$ 111,491
Traffic Signals, Electrical Work	\$ 59,610
Compensation Adjustment for Price Index Fluctuations for Paving Asphalt (Binder)	\$ 100,000
<b>Total Project Cost</b>	<b>\$ 5,167,464</b>

3. SOURCE OF FUNDING:

Fund 465 – Construction Excise Tax Fund

4. OPERATING COST: The proposed operating and maintenance costs of this project have been reviewed and will have no significant impact on the General Fund operating budget.

**BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

Fund #	Appn #	Appn. Name	Total Appn.	Amt. for Contract	2009-2010 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
465	7069	Recovery Act - Street Resurfacing and Rehabilitation	\$15,144,000	\$5,167,464	V-992	10/20/2009 Ord. No. 28653
<b>Total Current Funding Available</b>			<b>\$15,144,000</b>	<b>\$5,167,464</b>		

**CEQA**

Exempt, PP06-066.

/s/

HANS F. LARSEN  
 Acting Director of Transportation

For questions please contact Rene Cordero, Division Manager of Infrastructure Maintenance, at 277-8147.

Attachment

## ATTACHMENT A

### TIER II - Resurfacing & Rehabilitation Project

CD	STREET	FROM	TO
9	BASCOM AV	ELDEN DR	650' N/O DRY CREEK RD
2	CALERO AV	LEAN AV	BRIDLE WY
3	HUMBOLDT ST	10TH ST	11TH ST
3	JULIAN ST E	N 21ST ST	N MARKET ST
4/5	MABURY RD	N CAPITOL AV	N WHITE RD
5	MT PLEASANT RD	HARVEST DR	MARTEN AV
6	PARK AV	NEWHALL ST	HEDDING AV
2	SNELL AV	BLOSSOM HILL RD	SANTA TERESA BL
1	WESTMONT AV	HARRIET	QUITO RD
5	WHITE RD N	MCKEE RD	ALUM ROCK AV