

**38. Contract Change Order Approval – Pavement Rehabilitation at Three Locations-
Ward 3**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Authorize the Director of Finance and Management Services to allocate an additional \$643,910.10 to fund the change order to complete the pavement improvements "Project"; and
2. Approve the Construction Contract Change Order with Matich Corporation Company in the amount of \$643,910.10 to complete the "Project"; and
3. Authorize the project construction and construction contingencies in the total amount of \$693,000 to provide pavement improvements to complete the "Project"; and
4. Authorize the City Manager or designee to expend the contingency fund, if necessary, to complete the project.



CONSENT CALENDAR

City of San Bernardino Request for Council Action

Date: January 17, 2024

To: Honorable Mayor and City Council Members

From: Charles A. Montoya, City Manager;
Lynn Merrill, Interim Director of Public Works

Department: Public Works

Subject: **Contract Change Order Approval – Pavement Rehabilitation at Three Locations- Ward 3**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Authorize the Director of Finance and Management Services to allocate an additional \$643,910.10 to fund the change order to complete the pavement improvements "Project"; and
2. Approve the Construction Contract Change Order with Match Corporation Company in the amount of \$643,910.10 to complete the "Project"; and
3. Authorize the project construction and construction contingencies in the total amount of \$693,000 to provide pavement improvements to complete the "Project"; and
4. Authorize the City Manager or designee to expend the contingency fund, if necessary, to complete the project.

Executive Summary:

To complete the required street improvements, a change order to the contract with Match Corporation Company is requested. Public Works staff is requesting an amendment to the contract to utilize the remaining funds allocated in the Community Development Block Grant (CDBG) account, and to extend the limits of the pavement to be completed from the remaining CDBG Fund balance in the amount of \$705,530.78 and authorize a contract change order including construction in the amount of \$643,910.10 and contingencies in the amount \$49,089.90 for a total amount of \$693,000 to Match Corporation Company.

Background:

The Public Works Department is responsible for maintaining streets citywide. In March 2020, a Pavement Management Analysis was completed which used scientific methods to rate the condition of all public streets in the City. Street segments (intersection to intersection) were rated based on Remaining Service Life (“RSL”) in years with a rating of 20 representing the condition of a recently completed street. Segments with RSL between 20 and 10 are usually maintained using crack sealing and slurry sealing. Segments with an RSL of 10 or less are generally in need of major maintenance, usually consisting of mill and overlay. Segments with RSL less than 5 require complete removal and replacement.

Community Development Block Grants (CDBG) partners with rural cities and counties to improve the lives of their low- and moderate-income residents through the creation and expansion of community and economic development opportunities, in support of livable communities. These street segments were chosen for that purpose and to help in-fill projects that are planned on these street segments.

In anticipation of this work, on June 1, 2022, the Mayor and City Council approved and adopted the City of San Bernardino’s Annual Operating Budgets and Capital Improvements Plan (CIP) for FY 2023 and FY2024. The CIP established CDBG Funding in the amount of \$1,628,207.00.00 for the project to rehabilitate the following locations:

- Rialto Avenue from Mt. Vernon Avenue to Bridge (Ward 3)
- 10th Street from “F” Street to “H” Street to Knuckle (Ward 1)
- 49th Street from Sierra Way to End (Ward 4)

Plans and specifications were prepared with the proposed scope of work for the locations to include pavement rehabilitation and provide missing sidewalk and ADA access ramps.

Discussion:

A contract was awarded to Matich Corporation Company at the City Council meeting on August 2, 2023, in the amount of \$763,593.55, to provide Pavement Rehabilitation at Three Locations and is expected to be completed in the first quarter of 2024. The available funds remaining in the CDBG grant will allow the staff to extend the limits on the scope of the street rehab to include Rialto Avenue from 3760 feet east of Rialto Avenue, and extending westerly to the Metrolink Tracks approximately 800 feet west of Macy Street. The extended limits will allow the City to expend all the CDBG funds allocated for the paving project for fiscal year 2022/2023 and benefit the City with the additional 4,560 feet of pavement rehabilitation and provide missing sidewalk and ADA access ramps.

There is no General Fund impact associated with this item. CDBG funding was previously appropriated in the FY 2021/22 Capital Improvement Plan. To date, the remaining CDBG budget for this project is \$1,925,386.33 A Project budget for the proposed work was previously established through the adopted FY 2021/22 Capital Improvement Plan in the CDBG fund as follows:

Citywide Pavement Rehabilitation (CDBG, G.L. No. 119-160-8886*5504)
\$1,628,207.00

The overall cost of the improvement work is as follows:

Original Construction Bid Amount	\$763,593.55
Contract Change Order	
\$643,910.10	
Original Contract Contingency	\$76,359.40
Original Engineering and inspections	\$76,359.40
Contract Change Order Contingency	\$49,089.90
Staff Time	\$18,894.65
Total Amount	\$1,628,207.00

The existing section incorporated into the initial project scope adheres to the Community Development Block Grant (CDBG) guidelines, specifying that the extended street segment should seamlessly connect with the original segment. Furthermore, following field inspections, visual assessments, and a pavement evaluation report conducted in 2019, the Remaining Service Life (RSL) of the pavement within the extended project limits was determined to fall within the unacceptable distress range of 2 to 6 values.

The contractor is currently mobilized and has indicated that they can complete this additional work by April 15, 2024, subject to timely issuance of a change order after the council approval.

2021-2025 Strategic Targets and Goals:

This project is consistent with Key Target No.1e: Improved Operational & Financial Capacity – Minimize risk and litigation exposure. Approval of this project will result in public improvements being constructed that minimize risk and litigation exposure through street improvements in the City.

Fiscal Impact:

There is no General Fund impact associated with this item. CDBG funding was previously appropriated in the FY 2021/22 Capital Improvement Plan. To date, the remaining CDBG budget for this project is \$1,925,386.

Conclusion:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Authorize the Director of Finance and Management Services to allocate an additional \$643,910.10 to fund the change order to complete the pavement Improvements "Project"; and
2. Approve the Construction Contract Change Order with Matich Corporation Company in the amount of \$643,910.10 to complete the "Project"; and
3. Authorize the project construction and construction contingencies in the total amount of \$693,000 to provide pavements improvements to complete the "Project"; and
4. Authorize the City Manager or designee to expend the contingency fund, if necessary, to complete the project.

Attachments:

- Attachment 1 Change Order - Matich Corporation
Attachment 2 Agreement with Matich Corporation Company

Ward:

3

Synopsis of Previous Council Actions:

- June 1, 2022 Mayor and City Council adopted Resolution No. 2022-102 approving and adopting the City of San Bernardino annual operating budgets and capital Improvements plan (CIP) for FY 2023 and FY2024.
- August 2, 2023 Mayor and City Council Awarded a construction contract to Matich Corporation



PO Box 10, Highland, CA 92346

To: **Azzam Jabsheh**
City of San Bernardino
201 N. E St.
San Bernardino CA 92401

Quote : **2430**
Date : **12/21/2023**
Phone: **(909) 384-5019**
Email: **jabsheh_az@sbcity.org**

From: **Jason Jones**
Phone: **(909) 382-7400**
Fax: **(909) 382-0113**

CA License: **149783 A, B**
DIR No: **1000004260**
Email: **jjones@matichcorp.com**

We propose to furnish labor and material in accordance with the plans and specifications for:
23-041 RIALTO AVE. WEST OF PROJECT VERSION 3
SAN BERNARDINO, CA

Item No.	Description	Quantity	U/M	Unit Price	Total Price
OPTION 1					
01 1	MOBILIZATION	1	LS	\$31,600.00	\$31,600.00
01 2	TRAFFIC CONTROL	1	LS	\$21,200.00	\$21,200.00
01 3	2" AC GRIND	347,830	SF	\$0.27	\$93,914.10
01 4	2" AC OVERLAY	4,174	TN	\$99.00	\$413,226.00
01 5	ADJUST MANHOLE	30	EA	\$1,000.00	\$30,000.00
01 6	ADJUST VALVES	15	EA	\$198.00	\$2,970.00
01 7	STRIPING	1	LS	\$42,000.00	\$42,000.00
01 8	ASPHALT REPAIRS - 20 TN	1	WD	\$9,000.00	\$9,000.00
Total for: OPTION 1					\$643,910.10

Date:

Accepted by:

00 52 13 – CONTRACT FOR CONSTRUCTION

This Contract for Construction of Pavement Rehabilitation at Three Locations, City Project No. **13579** (the “Contract”) is made and entered into this **2nd day of August 2023** by and between the CITY OF SAN BERNARDINO, with its principal place of business at Vanir Tower, 290 North D Street, San Bernardino, California 92401, sometimes hereinafter called the “City” and **Matich Corporation**, sometimes hereinafter called “Contractor.”

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

ARTICLE 1. SCOPE OF WORK.

The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

PAVEMENT REHABILITATION AT THREE LOCATIONS, PROJECT NO: 13579

Contractor is an independent contractor and not an agent of the City. The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor’s failure to comply with this obligation.

ARTICLE 2. TIME FOR COMPLETION.

Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City’s Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within Fifty (50) working days from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

ARTICLE 3. CONTRACT PRICE.

The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of Seven Hundred Sixty Three Thousand Five Hundred Ninety Three Dollars and 55/100 cents (\$763,593.55). Payment shall be made as set forth in the General Conditions. The City will pay to Contractor compensation based upon the prices set forth in the Bid Schedule.

ARTICLE 4. LIQUIDATED DAMAGES.

Contractor acknowledges that the City will sustain actual damages for each and every Day completion of the Project is delayed beyond the Contract Time. Because of the nature of the Project, it would be impracticable or extremely difficult to determine the City’s actual damages. Accordingly, in accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum of **\$1,500** for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages

and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Section does not exclude recovery of other damages specified in the Contract Documents. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent the City, in case of Contractor's default, from terminating the Contractor.

ARTICLE 5. COMPONENT PARTS OF THE CONTRACT.

The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Forms
- Bid Acknowledgement
- Bid Schedule
- Bid Guarantee
- Designation of Subcontractors
- Information Required of Bidders
- Non-Collusion Declaration Form
- Iran Contracting Act Certification
- Public Works Contractor DIR Registration Certification
- Performance Bond
- Payment (Labor and Materials) Bond
- Contract for Construction
- General Conditions
- Special Conditions
- Specifications
- Addenda
- Construction Plans and Drawings
- Standard Specifications for Public Works Construction "Greenbook", latest edition,
Except Sections 1-9
- Applicable Local Agency Standards and Specifications, as last revised
- Reference Specifications
- Approved and fully executed Change Orders
- Permits
- Any other documents contained in or incorporated into the Contract
- Appendix F - Other Federal Requirements

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of conflict, the various Contract Documents will be given effect in the order set forth in the General Conditions. This Contract shall supersede any prior agreement of the parties.

ARTICLE 6. PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

ARTICLE 7. INDEMNIFICATION.

Contractor shall provide indemnification and defense as set forth in the General Conditions.

ARTICLE 8. PREVAILING WAGES.

Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

ARTICLE 9. FALSE CLAIMS.

Contractor acknowledges that if a false claim is submitted to the City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may prevent the Contractor from an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF SAN BERNARDINO

MATICH CORPORATION

By: Charles E. McNeely
CHARLES E. McNEELY
Interim City Manager

By: Jason G Jones

Its: Vice President of Estimating

Printed Name: Jason G Jones

ATTEST: Genoveva Rocha

By: _____

By: Genoveva Rocha
GENOVEVA CMC ROCHA
City Clerk

Its: _____

Printed Name: _____

APPROVED AS TO FORM:

By: Thomas Rice
Best Best & Krieger LLP
City Attorney

149783

Contractor's License

**(CONTRACTOR'S SIGNATURE MUST
BE NOTARIZED AND CORPORATE
SEAL AFFIXED, IF APPLICABLE)**

1000004260

DIR Registration Number

END OF CONTRACT