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**Title:** CONSIDERATION TO ACCEPT AS COMPLETE PROJECT NO. 1444: AVALON BOULEVARD PAVEMENT RESTORATION FROM DOMINGUEZ STREET TO VICTORIA STREET

**Sponsors:** Public Works

**Indexes:**

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**Attachments:** 1. Exh. 1 CC Proj1444 Location Map.pdf, 2. Exh. 2 CC Proj1444 Minutes Item No. 2 (9-2-14) Awa Cnst Cont Shawnan.pdf

| Date | Ver. | Action By | Action | Result |
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**Report to Mayor and City Council**

Tuesday, February 21, 2017

Consent

**SUBJECT:**

**CONSIDERATION TO ACCEPT AS COMPLETE PROJECT NO. 1444: AVALON BOULEVARD PAVEMENT RESTORATION FROM DOMINGUEZ STREET TO VICTORIA STREET**

**I. SUMMARY**

Project No. 1444: Avalon Boulevard Pavement Restoration from Dominguez Street to Victoria Street has been completed in accordance with the approved plans and specifications (Exhibit No. 1). On September 22, 2014, the City of Carson (City) and Sialic Contractors Corporation dba Shawnan Construction (Shawnan) entered into a public works contract for the repaving of Avalon Boulevard from Dominguez Street to Victoria Street. Shawnan performed additional work to complete the project, including but not limited to, the removal of petromat found below the pavement’s surface. A dispute arose between the City and Shawnan regarding the authorization, or lack thereof, for Shawnan’s performance of additional work, and the amount owed for said work. Shawnan filed a lawsuit against the City for breach of contract, seeking damages in excess of \$479,447.01, in addition to the release of the retention proceeds. As a result of mediation, the parties have reached a settlement. The City agrees to pay Shawnan \$325,000.00 as the settlement amount for the lawsuit, and will release the retention proceeds upon the acceptance of the project by the City Council.

It is requested that the City Council accept the work as complete and authorize staff to file the Notice of Completion.

## **II. RECOMMENDATION**

TAKE the following actions:

1. ACCEPT as complete Project No. 1444: Avalon Boulevard Pavement Restoration from Dominguez Street to Victoria Street.
2. AUTHORIZE staff to request additional funding, in the amount of \$51,215.90 from the Carson Successor Agency bond proceeds (account no. 84-70-999-985-8020/0144401), to augment the amount currently budgeted for Project No. 1444: Avalon Boulevard Pavement Restoration from Dominguez Street to Victoria Street.
3. AUTHORIZE staff to file a Notice of Completion.

## **III. ALTERNATIVES**

1. DO NOT ACCEPT the project as complete. However, Civil Code Section 3093 requires a Notice of Completion to be filed for record within 10 days, upon the completion and settlement of all public works project claims, if any.
2. TAKE another action the City Council deems appropriate consistent with the requirements of the law.

## **IV. BACKGROUND**

On June 10, 2014, Carson Successor Agency (CSA) Member Gipson requested that staff create a project to improve the pavement of Avalon Boulevard between Dominguez Street and Victoria Street. At the same meeting, the Carson Successor Agency Board unanimously approved this request. Subsequently, staff assigned Project No. 1444: Avalon Boulevard Pavement Restoration from Dominguez Street to Victoria Street; prepared the plans, specifications and estimate (PS&E); advertised the project for construction bids; and set the bid opening for July 17, 2014.

Project No. 1444: Avalon Boulevard Pavement Restoration from Dominguez Street to Victoria Street covered a total length of 1.80 miles, and included grinding two inches of existing asphalt pavement and overlaying it with two inches of rubberized asphalt, removal and reconstruction of deteriorated sections of the roadway; pavement markings and re-striping; and other related work. Rehabilitation of this street restored ride quality, avoided excessive maintenance costs, restored pavement structural integrity, extended the service life of the road, and provided a safe route for commuters and heavy trucks.

On July 17, 2014, seven bids were received and opened by the City Clerk. On September 2, 2014; the Carson Successor Agency Board awarded a construction contract to the lowest responsible bidder, Shawnan, with a bid in the amount of \$1,612,783.25; and authorized the expenditure of a construction contingency, if necessary, in an amount not-to-exceed \$241,917.48 (15%) for change orders such as the removal and remediation of contaminated soil, substructure conflicts, and other unforeseen construction work that may be required to complete this project (Exhibit No. 2).

On September 22, 2014, the City and Shawnan entered into a public works contract for the repaving of Avalon Boulevard from Dominguez Street to Victoria Street.

On December 1, 2014 the project construction was started. In April 2015, Shawnan encountered petromat while grinding the existing asphalt roadway on Avalon Boulevard and informed the City of this changed condition. The City obtained a cost proposal from Shawnan for removal of the petromat and agreed to the price informally by email, but no change order was prepared. Pursuant to this informal agreement, Shawnan proceeded with removing the petromat and recycling it, and on May 29, 2015 the project was substantially completed.

A dispute arose between the City and Shawnan regarding the authorization, or lack thereof, for Shawnan’s performance of additional work and the amount owed for said work. On January 15, 2016, Shawnan filed a lawsuit against the City in Los Angeles County Superior Court, Case No. TC028350, for breach of contract, seeking damages in excess of \$479,447.01, in addition to the release of the retention proceeds.

On December 8, 2016, the parties participated in mediation. As a result of the mediation, the parties agreed to settle the case for \$325,000.00, subject to the City Council’s approval; and the City will release the retention proceeds following acceptance of the project.

The project has been completed, and staff is requesting City Council to accept the work as complete and authorize staff to file a Notice of Completion.

**V. FISCAL IMPACT**

The total amount budgeted for this project was \$1,880,000.00, originally allocated from Carson Successor Agency fund account no. 82-70-793-004-8020/0144401. This budget allocation was revised/modified on June 30, 2015 to use two additional funds, the Gas Tax fund (account no. 12-80-999-004-8020/0144401), and the Measure R fund (account no. 54-80-999-003-8020/0144401).

The actual expenditures for this project totaled \$1,701,806.64. These expenditures include construction costs, advertisement, material testing, design fee, staff cost, and the Project Labor Agreement (PLA) consultant’s fee.

The settlement requires the lump-sum payment of \$325,000.00 from the City to Shawnan, and the release of the retention proceeds. The foregoing payments will be paid from the Carson Successor Agency bond proceeds that were transferred to the City via the Cooperative Bond Proceeds Agreement.

The project cost and updated funding summary is shown below:

| Description   | Fund Source                         | Allocated Amount | Actual Expenditure |
|---|-------------------------------------|------------------|--------------------|
|   | Account No.                         |                  |                    |
| Fund 82 - CSA fund Originally approved at the 9/2/2014 meeting for Sialic Contractors Corporation dba Shawnan Construction contract | 82-70-793-004-8020/0144401 - C01774 | \$1,854,700.73   | \$1,595,615.74     |

| <b>Revised Description</b>  |   | <b>Revised/Modified</b> |                       |
|---|---|-------------------------|-----------------------|
| Fund 82 - CSA fund Modified on 6/30/2015 for Sialic Contractors Corporation dba Shawnan Construction contract | 82-70-793-981-8020/0144401 - C01774     | \$429,500.00            | \$429,500.00          |
| Fund 12 - Gas Tax Sialic Contractors Corporation dba Shawnan Construction contract                            | 12-80-999-004-8020/0144401- C01774 Y    | 120,000.00              | 120,000.00            |
| Fund 54 - Measure R Sialic Contractors Corporation dba Shawnan Construction contract                          | 54-80-999-003-8020/0144401 - C01774 X&Y | 1,046,115.74            | 1,046,115.74          |
| Fund 82 - CSA fund Hushmand Associates, Inc. for material testing and field observation service               | 82-70-793-981-8020/0144401 - P46824     | 24,975.00               | 24,962.50             |
| General Fund M. L. Johnson CA, Inc. for PLA monitoring service agreement                                      | 01-80-820-004-6004/0144401- C01806      | 30,000.00               | 28,872.32             |
| Fund 82 - CSA fund Daily Breeze, project Advertising - P46425   | 82-70-793-981-8020/0144401 - P46425     | n/a                     | 1,299.95              |
| Fund 84 - CSA fund Request for additional funding   | 84-70-999-985-8020/0144401              | n/a                     | n/a                   |
| Total Contract Cost   |   | \$1,650,590.74          | \$1,650,750.51        |
| Staff Costs   |   | n/a                     | 51,056.13             |
| <b>TOTAL PROJECT COST</b>   |   |                         | <b>\$1,701,806.64</b> |

**VI. EXHIBITS**

1. Location Map. (pg. 5)
2. Minutes, September 2, 2014, CSA Item No. 2. (pg. 6)

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