

# **Council Meeting Agenda**

**FEBRUARY 2, 2011**

**MITCHELL ROOM ~ 12:00 P.M.**

**201 N. Broadway, Escondido, CA 92025**

MAYOR	<b>Sam Abed</b>
DEPUTY MAYOR	<b>Marie Waldron</b>
COUNCIL MEMBERS	<b>Olga Diaz</b> <b>Ed Gallo</b> <b>Michael Morasco</b>
CITY MANAGER	<b>Clay Phillips</b>
CITY CLERK	<b>Marsha Whalen</b>
CITY ATTORNEY	<b>Jeffrey Epp</b>
DIRECTOR OF COMMUNITY DEVELOPMENT	<b>Barbara Redlitz</b>
DIRECTOR OF ENGINEERING SERVICES	<b>Ed Domingue</b>

**ELECTRONIC MEDIA:**

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.



# Council Meeting Agenda

**FEBRUARY 2, 2011  
12:00 p.m. Meeting  
Mitchell Room**

**SPECIAL MEETING  
Escondido City Council and  
Community Development Commission**

## **CALL TO ORDER**

**ROLL CALL:** Diaz, Gallo, Morasco, Waldron, Abed

## **ORAL COMMUNICATIONS**

At this time the public may comment on items not appearing on the agenda. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.)

## **CONSENT CALENDAR**

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)**
- 2. APPROVAL OF WARRANT REGISTER (Council/CDC)**
- 3. APPROVAL OF MINUTES: None Scheduled**
- 4. AWARD CONSTRUCTION CONTRACT FOR THE 2010-2011 STREET AND SIDEWALK MAINTENANCE PROGRAM** – Request Council authorize the Mayor and City Clerk to execute an agreement with George Weir Asphalt Construction, Inc. in the amount of \$2,985,074.69 for the construction of the 2010-2011 Street and Sidewalk Maintenance Program

Staff Recommendation: Approval (**Engineering Services: Ed Domingue**)

RESOLUTION NO. 2011-15

**WORKSHOP**

1. **Welcome, Opening Comments, Agenda Review, Workshop Guidelines**
  - Mayor
  - City Manager
  - Workshop Facilitator
2. **Update on Financials/Impact of State Budget Priorities**
3. **Input from Each Council Member on Vision/Priorities for 2011-2013**
4. **Development of Priority Policies**
5. **Identification of Goals/Objectives for each Policy**
6. **Moving Forward**
  - Agreements about communication
  - Next steps by staff

**ORAL COMMUNICATIONS**

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**ADJOURNMENT**

<b>UPCOMING MEETING SCHEDULE</b>				
<b>Date</b>	<b>Day</b>	<b>Time</b>	<b>Meeting Type</b>	<b>Location</b>
February 9	NO MEETING	-	-	-
February 16	Wednesday	8:00 a.m.	State of the City	CCAЕ, Salons 1-3
	Wednesday	4:30 pm	Council Meeting	Council Chambers
February 23	NO MEETING			
March 2	Wednesday	4:30 pm	Council Meeting	Council Chambers

## TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item *not* on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

## AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <http://www.ci.escondido.ca.us/government/agendas/PublishedMeetings.htm>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

**AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING:** Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

## LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and can be viewed the following Sunday and Monday evenings at 6:00 p.m. on Cox Cable. The Council meetings are also available live via the Internet by accessing the City's website at [www.escondido.org](http://www.escondido.org), and selecting: City Council/broadcasts of City Council Meetings/live video streaming.

**Please turn off all cellular phones and pagers while the meeting is in session.**

**The City Council is scheduled to meet the first four Wednesdays of the month at 4:00 and 7:00 p.m. (*Verify schedule with City Clerk's Office*) Members of the Council also sit as the Community Development Commission and the Mobilehome Rent Review Board.**

**CITY HALL HOURS OF OPERATION  
Monday-Thursday 7:30 a.m. to 5:30 p.m.**



*If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4641. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.*

*Listening devices are available for the hearing impaired – please see the City Clerk.*

# CITY COUNCIL

For City Clerk's Use:

**APPROVED**       **DENIED**

Reso No. \_\_\_\_\_ File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

**Agenda Item No.:** 4  
**Date:** February 2, 2011

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Edward N. Domingue, Director of Engineering Services  
**SUBJECT:** Bid Award for the 2010-2011 Street and Sidewalk Maintenance Program

RECOMMENDATION:

It is requested that Council determine the apparent low bid from George Weir Asphalt Construction, Inc. to be the lowest responsive and responsible bid, and adopt Resolution No. 2011-15 authorizing the Mayor and the City Clerk to execute a Public Improvement Agreement with George Weir Asphalt Construction, Inc. in the amount of \$2,985,074.69 for the 2010-2011 Street and Sidewalk Maintenance Program.

FISCAL ANALYSIS:

This project will be funded with Proposition 1B, Gas Tax, and Transnet-Street Maintenance-ARRA funds.

PREVIOUS ACTION:

None

BACKGROUND:

This project involves asphalt grinding, repaving and restriping, installing video traffic cameras and vehicle detection loops at select intersections, installing and replacing broken concrete curbs, gutters, ADA ramps, bus stop aprons, driveway aprons and sidewalks. This work is being performed in the following areas:

- The area bordered by Lincoln Avenue, Midway Drive, Grand Avenue and Fig Street
- The area bordered by Second Avenue, Date Street, Seventh Avenue and Juniper Street
- The area bordered by the Flood Control Channel, Broadway, Fifth Avenue and Centre City Parkway
- A segment of Chestnut Street between Fifth Avenue and Juniper Street
- A segment of West Valley Parkway and Second Avenue between the I-15 freeway and Centre City Parkway

- A segment of Via Rancho Parkway/Bear Valley Parkway between Las Palmas Avenue and the I-15 freeway

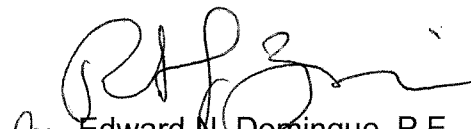
The Engineer's estimate for the project is \$3,750,000.

On January 25, 2011, the City of Escondido received eleven (11) sealed bids in response to its advertised request for bids on this project. The bids were opened by the City Clerk with the following base bid results:

George Weir Asphalt Construction, Inc.	\$2,985,074.69
Granite Construction Co.	\$3,275,806.40
T.C. Construction Company, Inc.	\$3,425,159.00
Southland Paving Inc.	\$3,428,676.14
ABC Construction Co. Inc.	\$3,484,490.90
Sim J. Harris, Inc.	\$3,495,000.00
SRM Contracting & Paving	\$3,531,871.00
Hazard Construction Company	\$3,589,900.00
ATP General Engineering Contractors	\$3,601,660.90
All American Asphalt	\$3,685,000.00
Daley Corporation	\$4,236,619.00

Staff recommends that the bid submitted by George Weir Asphalt Construction, Inc. be considered the lowest responsive and responsible bid and the contract be awarded to George Weir Asphalt Construction, Inc. in the amount of \$2,985,074.69 for the 2010-2011 Street and Sidewalk Maintenance Program.

Respectfully submitted,

  
Edward W. Domingue, P.E.  
Director of Engineering Services

RESOLUTION NO. 2011-15

4.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING A BID FOR THE 2010-2011 STREET AND SIDEWALK MAINTENANCE PROGRAM AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, ON BEHALF OF THE CITY, A PUBLIC IMPROVEMENT AGREEMENT WITH GEORGE WEIR ASPHALT CONSTRUCTION, INC.

WHEREAS, the City Council has allocated funding for the 2010-2011 Street and Sidewalk Maintenance Program ("Program"); and

WHEREAS, a notice inviting bids for said Program was duly published and, pursuant to said notice, George Weir Asphalt Construction, Inc. submitted a bid; and

WHEREAS, George Weir Asphalt Construction, Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to award this Public Improvement Agreement to George Weir Asphalt Construction, Inc.;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and the City Clerk are authorized to execute, on behalf of the City, a Public Improvement Agreement with George Weir Asphalt Construction, Inc. in substantially the form as attached as Exhibit "A" and incorporated by this reference.



## PUBLIC IMPROVEMENT AGREEMENT

This "Agreement", dated the \_\_\_\_\_ day of \_\_\_\_\_, 2011, in the County of SAN DIEGO, State of California, is by and between **THE CITY OF ESCONDIDO** (hereinafter referred to as "CITY"), and **George Weir Asphalt Construction, Inc.** (hereinafter referred to as "CONTRACTOR").

The CITY and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. The complete contract includes all of the Project Documents described in the General Conditions, which are incorporated by reference. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.
2. CONTRACTOR shall perform within the time set forth in Paragraph 4 of this Agreement everything required and reasonably inferred to be performed, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services as described in the complete contract and required for construction of

### 2010-2011 Street and Sidewalk Maintenance Program

All of said work to be performed and materials to be furnished shall be completed in a good workmanlike manner, free from defects, in strict accordance with the plans, drawings, specifications and all provisions of the complete contract as hereinabove defined. The CONTRACTOR shall be liable to the CITY for any damages and resulting costs, including consultants' costs, arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project documents. Such protest shall not be effective unless reduced to writing and filed with the CITY within **three (3) working days** of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project documents.

3. CITY shall pay to the CONTRACTOR, as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the Project documents, the sum of Two million, nine hundred eighty-five thousand, seventy four and 69/100 Dollars (\$2,985,074.69).
4. The work shall be commenced on or before the twenty-first (21<sup>st</sup>) day after receiving the CITY'S Notice to Proceed and shall be completed within **Eighty (80) working days** from the date specified in the Notice to Proceed.
5. Time is of the essence. If the work is not completed in accordance with Paragraph 4 above, it is understood that the CITY will suffer damage. It being impractical and infeasible to determine the amount of actual damage(s), in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to CITY as fixed and liquidated damages, and not as a penalty, the sum(s) indicated in the LIQUIDATED DAMAGES SCHEDULE below for each calendar day of

delay until work is completed and accepted. This amount shall be deducted from any payments due to or to become due to CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for the amount thereof. Time extensions may be granted by the CITY as provided in the General Conditions.

Liquidated damages schedule:

If the overall project is delayed **one (1) calendar day or more**, the rate shall be \$250/day.

**Acknowledged:**

\_\_\_\_\_  
**Initials of Principal**

6. In the event CONTRACTOR for a period of **ten (10) calendar days** after receipt of written demand from CITY to do so, fails to furnish tools, equipment, or labor in the necessary quantity or quality, or to prosecute said work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said **ten (10) calendar days**, fails to continue to do so, then the CITY may exclude the CONTRACTOR from the premises, or any portion thereof, and take possession of said premises or any portion thereof, together with all material and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of said work, or the portion taken over by the CITY to another contractor, or demanding the surety hire another contractor, or by any combination of such methods. In any event, the procuring of the completion of said work, or the portion thereof taken over by the CITY, shall be a charge against the CONTRACTOR, and may be deducted from any money due or to become due to CONTRACTOR from the CITY, or the CONTRACTOR shall pay the CITY the amount of said charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment should CONTRACTOR fail to pay in full any said cost incurred by the CITY. The permissible charges for any such procurement of the completion of said work should include actual costs and fees incurred to third party individuals and entities (including, but not limited to consultants, attorneys, inspectors, and designers) and actual costs incurred by CITY for the increased dedication of time of CITY employees to the Project.
  
7. To the fullest extent permitted by law, the CONTRACTOR agrees to and does hereby agree to fully defend, indemnify and hold the CITY, its governing board, officers, agents, Project design team members (architect and consulting engineers), consultants, attorneys, and employees harmless of and from each and every claim, assertion, action, cause of action, arbitration, suit, proceedings, or demand made, and every liability, loss, judgment, award, damage, or expense, of any nature whatsoever (including attorneys' fees, consultant costs), which may be incurred by reason of:
  - (a) Asserted and/or actual liability arises from claims for and/or damages resulting from damages for:
    - (1) Death or bodily injury to persons.
    - (2) Injury to, loss or theft of tangible and/or intangible property/ e.g. economic loss.
    - (3) Any other loss, damage or expense arising under either (1) or (2) above, sustained by the CONTRACTOR upon or in connection with the work called for in this Project, except for liability resulting from the sole active negligence, or willful misconduct of the CITY.

- (b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs on or off City property.
- (c) Any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. 2001-01), and updates or renewals, of the California Regional Water Quality Control Board Region 9, San Diego, which the CITY might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction, reconstruction, maintenance, and/or repair of the work under this Agreement.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suit, or other proceedings that may be brought or instituted against the CITY, its governing board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the CITY, its governing board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

- 8. (a) CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this contract, and shall require all subcontractors, if any, of every tier, to take out and maintain:
  - (1) General Liability and Property Damage Insurance as defined in the General Conditions in the amount with a combined single limit of not less that **\$3,000,000 per occurrence**.
  - (2) Course of Construction / Builder's Risk Insurance See 5.2 of General Conditions.
  - (3) Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to the above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:
    - (A) Automotive and truck where operated in amounts as above
    - (B) Material hoist where used in amounts as above
  - (4) Workers' Compensation Insurance.
- (b) Each insurance policy required above must be acceptable to the City Attorney, as follows:

- (1) Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation and the Errors and Omissions policies.
- (2) Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.
- (3) All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.

(c) In executing this Agreement, CONTRACTOR agrees to have completed insurance documents on file with the CITY within 14 days after the date of execution. Failure to comply with insurance requirements under this Agreement will be a material breach of this Agreement, resulting in immediate termination at CITY's option.

9. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of the CONTRACTOR, securities equivalent to the amount withheld in retention by the CITY, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld shall be deposited with the public agency, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the CONTRACTOR. The City retains the sole discretion to approve the bank selected by the CONTRACTOR to serve as escrow agent. Upon satisfactory completion of the contract, the securities shall be returned to the CONTRACTOR. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the CONTRACTOR may request CITY to make payment of earned retentions directly to the escrow agent at the expense of the CONTRACTOR. Also at the CONTRACTOR's expense, the CONTRACTOR may direct investment of the payments in securities, and the CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the contract, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by escrow agent from CITY pursuant to the terms of Section 22300. If CONTRACTOR elects to receive interest on moneys withheld in retention by CITY, CONTRACTOR shall, at the request of any subcontractor, make that option available to the subcontractor regarding any monies withheld in retention by the CONTRACTOR from the subcontractor. If the CONTRACTOR elects to receive any interest on any monies withheld in retention by the Owner, then the subcontractor shall receive the identical rate of interest received by the CONTRACTOR on any retention monies withheld from the subcontractor by the CONTRACTOR, less any actual pro rata costs associated with administering and calculating that interest. In the event the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the CONTRACTOR elects to substitute securities in lieu of retention, then, by mutual consent of the CONTRACTOR and subcontractor, the subcontractor may substitute securities in exchange for the release of monies held in retention by CONTRACTOR. This shall apply only to those subcontractors performing more than five percent (5%) of the

CONTRACTOR'S total bid. The CONTRACTOR shall not require any subcontractor to waive any provision of this section.

10. Each and every provision of law and clause required by law to be inserted in this Agreement or its attachments shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction, without further changes to the remainder of the Agreement.
11. The complete contract as set forth in Paragraph 1 of this Agreement constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Escondido City Council.
12. CONTRACTOR shall comply with those provisions of the Labor Code requiring payment of prevailing wages, keeping of certified payroll records, overtime pay, employment of apprentices, and workers' compensation coverage, as further set forth in the General Conditions, and shall file the required workers' compensation certificate before commencing work.
13. The terms "Project Documents" and/or "Contract Documents" where used, shall refer to those documents include in the definition set forth in the General Conditions made a part hereof.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of CITY by its officers thereunto authorized and by CONTRACTOR, the date and year first above written.

CITY OF ESCONDIDO  
a municipal corporation  
201 North Broadway  
Escondido, CA 92025

By: \_\_\_\_\_  
Marsha Whalen, City Clerk

By: \_\_\_\_\_  
Sam Abed, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY  
JEFFREY R. EPP, City Attorney

By: \_\_\_\_\_

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature\*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

(Second signature required only for corporation)

By: \_\_\_\_\_  
Signature\*\*

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

(CORPORATE SEAL OF CONTRACTOR,  
if corporation)

\_\_\_\_\_  
Contractor's License No.

\_\_\_\_\_  
Tax ID/Social Security No.

\*If CONTRACTOR is a corporation, the first signature must be by one of the following officers of the corporation: Chairman of the Board, President, or any Vice President; and the second signature must be by a different person from the first signature and must be by one of the following officers of the corporation: Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.