

DRAFT

RESOLUTION 20xx-xxx

**RESOLUTION REJECTING BID PROTEST FROM
EAGLE PAVING COMPANY, INC. AGAINST TC
CONSTRUCTION COMPANY, INC. ON THE
PAVEMENT IMPROVEMENTS AT SHELTER ISLAND
PARKING LOTS PROJECT**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I; and

WHEREAS, the Pavement Improvements at Shelter Island Parking Lots Project is identified in the District Asset Management Program (AMP) requiring repair and maintenance in FY19/20; and

WHEREAS, the plans and specifications define the contract work including crack seal, slurry seal and seal coat application on the existing asphalt pavement at parking lots #1A, #1B and #10; replacement of existing asphalt with new 4" asphalt pavement over 10" recycled base at parking lots #2 and #3; and pavement striping and markings at all parking lots (Attachment A to the corresponding agenda report-Location Map); and

WHEREAS, the Contract Documents including plans SI-2019-01 and specifications No. 2019-15 were issued for advertisement on December 11, 2019; and

WHEREAS, on January 14, 2020, the District received 12 bids ranging from \$789,700.00 to \$1,004,951.08. The responsive bids are listed on Attachment B to the corresponding agenda report. The lowest responsive and responsible bid was submitted by MVC Enterprise Inc. (MVC) in the amount of \$789,700.00; and

WHEREAS, the third lowest bidder, Eagle Paving Company, Inc., has protested TC's bid claiming it is non-responsive as TC's sub-participant form lists a larger amount of the bid for two subcontractors than is listed in TC's bid amount for the work of these subcontractors (Attachment E to the corresponding agenda report); and

WHEREAS, TC responded that a portion of these subcontractors' work appears in the bid item which includes mobilization, that there were not mistakes in its bid, and that it is responsive (Attachment F to the corresponding agenda report); and

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WHEREAS, TC has requested the Board determine Eagles' protest is "frivolous" and, under the specification, find Eagle ineligible for future bids; and

WHEREAS, staff recommends rejecting the protest but not finding the protest frivolous.

NOW THEREFORE, BE IT RESOLVED that the Board of Port Commissioners of the San Diego Unified Port District, hereby rejects the bid protest from Eagle Paving Company, Inc. against TC Construction Company, Inc.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of February 2020, by the following vote: