

CITY OF PIEDMONT Council Agenda Report

DATE: September 19, 2011

FROM: Chester Nakahara, Public Works Director

SUBJECT: **Consideration of Award of the Calvert Court Resurfacing Project to Ransome Company in the Amount of \$113,160 and approve the overall Project Construction Budget of \$139,486.**

RECOMMENDATION:

By Motion:

1. Approve the award of a construction agreement with the Ransome Company for the Calvert Court Resurfacing Project based on their submitted bid of \$113,160.
2. Approve a Project Construction Budget of \$139,486, which includes the cost of construction, a 10% contingency and monies for construction management and inspections.
3. Authorize the Public Works Director to execute any contract change orders in accordance with the Project contract documents so long as the total project construction cost does not exceed the approved Project Construction Budget.

BACKGROUND:

Based on available monies from costs savings realized from the 2011 Paving Project for Moraga Ave., Seaview Ave., and around the Piedmont Middle and High Schools, staff was able to add another project to this year's paving program. Calvert Court was selected based on the priority list of our 2010-2011 Pavement Management Program. Plans were completed in late July and bid in accordance with the Public Contract Code. Bids were opened on August 23, 2011. The engineer's estimate for the project was \$123,700. Four bids were received as follows:

Ransome Company:	\$113,260
MCK Services:	\$123,421
American Asphalt:	\$146,830
Gallagher & Burk:	\$177,145

Upon review of the lowest responsible bid, it was noted that Ransome Co. made a minor mathematical error (included \$100 too much on one bid item.) Per paragraph 9.1 of the Instructions to Bidders of the bid package:

- 9.1 If an inconsistency exists between the amount listed for a unit price in a bid and the total listed for that bid item (e.g., if the total listed for a bid item does not equal the unit price listed in the bid multiplied by the quantity listed), subject to applicable law, the unit price will be deemed to accurately reflect the bidder's intent concerning the bid item

and the intended total for the bid item will be deemed to be the unit price as listed in the bid multiplied by the quantity listed.

The mathematical error is considered minor in nature and does not affect the results of the bidding. Accordingly, the bid is considered responsive, and the correct contract bid amount is \$113,160. No other discrepancies were found with the Ransome Co. bid and it was found that overall, it satisfies the requirements of the bid documents.

FINANCIAL CONSIDERATIONS

Based on the bid received from Ransome Company, the following is the suggested overall Project Construction Budget:

Construction Contract Base Bid:	\$ 113,160
Estimated Construction Management/Inspection/Testing:	\$ 15,000
<u>Construction Contingency (10%):</u>	<u>\$ 11,326</u>
Total Project Construction Budget:	\$ 139,486

This project is funded through the Street Maintenance Fund.

AGREEMENT

The City of Piedmont, a California Municipal Corporation (“City”) enters into this Agreement, dated hereafter, only, with Ransome Company (“Contractor”).

RECITALS

- A. **NOTICE INVITING BIDS.** The City gave notice inviting bids to be submitted by 2:00 p.m., August 23, 2011 for the **Calvert Ct. Resurfacing Project** by published notice and/or posting in accordance with California Public Contract Code Section 20164 and other applicable law.
- B. **BID OPENING.** On August 23, 2011 at 2:00 p.m., City representatives opened the bids for the **Calvert Ct. Resurfacing Project** and read the bids aloud.
- C. **PROJECT AWARD.** On September 19, 2011 the City Council awarded the **Calvert Ct. Resurfacing Project** to the Contractor and directed City staff to send the Contractor written notice of award of the project. The City Council conditioned award of the project on the Contractor’s providing executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award of the project.
- D. **REQUIRED DOCUMENTS.** The Contractor has provided the City executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award.

AGREEMENT TERMS

The City and the Contractor agree as follows:

1. **THE WORK.** The Contractor shall furnish all equipment, tools, apparatus, facilities, material labor, and skill necessary to perform and complete in a good and workmanlike manner the **Calvert Ct. Resurfacing Project** (“Work”) as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.
2. **LOCATION OF WORK.** The Work will be performed at the following locations in Piedmont, California:
Calvert Court
3. **TIME FOR COMPLETION.** The Contractor must complete the Work in accordance with the Contract Documents within fifteen (15) working days from the date specified in the City’s Notice to Proceed (“Time for Completion”).
4. **REMEDIES FOR FAILURE TO TIMELY COMPLETE THE WORK.** If the Contractor fails to fully perform the Work in accordance with the Contract Documents by the Time for Completion, as such time may be amended by change order or other modification to this Agreement in accordance with its terms, and/or if the Contractor fails, by the Time for Completion, to fully perform all of the Contractor’s obligations under this Agreement that have accrued by the Time for Completion, the Contractor will become liable to the City for all resulting loss and damage in accordance with the Contract Documents and applicable law. The City’s remedies for the Contractor’s failure to perform include, but are not limited to, assessment of liquidated damages of **\$900 per day** in accordance with California Government Code Section 53069.85 and Section

7-1.02 of the General Provisions, and/or obtaining or providing for substitute performance in accordance with the Contract Documents.

5. CONTRACT PRICE AND PAYMENT. As full compensation in consideration of completion of the Work in accordance with the Contract Documents and in consideration of the fulfillment of all of the Contractor's obligations under the Contract Documents, the City will pay the Contractor in lawful money of the United States the total price of **\$113,160.00** (the "Contract Price") as specified in the Contractor's completed Bid Schedule dated August 23, 2011, and attached hereto and incorporated in this Agreement. Payment to the Contractor under this Agreement will be for Work actually performed in accordance with the Contract Documents and will be made in accordance with the requirements of the Contract Documents and applicable law. The City will have no obligation to pay the Contractor any amount in excess of the Contract Price unless this Agreement is first modified in accordance with its terms. The City's obligation to pay the Contractor under this Agreement is subject to and may be offset by charges that may apply to the Contractor under this Agreement. Such charges include but are not limited to, charges for liquidated damages and/or substitute performance in accordance with the Contract Documents.

6. PREVAILING WAGES. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the City Public Works Department and will be made available on request. Throughout the performance of the Work the Contractor must comply with all provisions of the Contract Documents and all applicable laws and regulations that apply to wages earned in performance of the Work.

7. THE CONTRACT DOCUMENTS. This Agreement consists of the following documents ("Contract Documents"), all of which are incorporated into and made a part of this Agreement as if set forth in full. In the event of a conflict between or among the Contract Documents, precedence will be in the following order:
 - 7.1 This Agreement and change orders and other amendments to this Agreement signed by authorized representatives of the City and the Contractor.
 - 7.2 The General Provisions and change orders and other amendments to the General Conditions signed by authorized representatives of the City and the Contractor.
 - 7.3 The Special Provisions, addenda to the Special Provisions signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the City and the Contractor.

- 7.4 The Project Plans, addenda to the Project Plans signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the City and the Contractor.
 - 7.5 Notice Inviting Bids.
 - 7.6 Instructions to Bidders.
 - 7.7 The successful bidder's completed Proposal Form and Bidder's Sheet.
 - 7.8 The successful bidder's completed Contractor License Information.
 - 7.9 The successful bidder's completed List of Proposed Subcontractors.
 - 7.10 The successful bidder's Workers Compensation Insurance Certification.
 - 7.11 The successful bidder's completed Non-collusion Affidavit.
 - 7.12 The successful bidder's Debarment Certification.
 - 7.13 The successful bidder's completed Certificates of Insurance and Endorsements.
 - 7.14 The successful bidder's executed Performance Bond.
 - 7.15 The successful bidder's executed Payment Bond.
 - 7.16 Executed Escrow for Deposit Agreement, if applicable.
 - 7.17 Change Order Form.
 - 7.18 The Maintenance Bond form included in the bid package that the Contractor must execute prior to release of final payment under the Contract.
 - 7.19 The successful bidder's Qualification Statement, if any.
 - 7.20 The successful bidder's signed Signature Form.
8. PROVISIONS INCORPORATED BY REFERENCE. Provisions or parts of provisions that are incorporated by reference and not set forth at length in any of the Contract Documents will only form a part of this Agreement to the extent the Contract Documents expressly make such provisions or parts of provisions a part of this Agreement. For example, published public works agreement provisions, such as those of the State of California Department of Transportation Standard Specifications (known as the Standard Specifications) are only a part of this Agreement to the extent expressly incorporated in this Agreement by section number, and references in the Standard Specifications incorporated by reference to other Standard Specifications do not make such other Standard Specifications a part of this Agreement. When such published provisions are made a part of this Agreement, references in the published provisions to other entities, such as the State, the Agency, or similar references, will be deemed references to the City as the context of this Agreement may require.

9. INTERPRETATION OF CONTRACT DOCUMENTS. Any question concerning the intent or meaning of any provision of the Contract Documents, including, but not limited to, the Technical Specifications or Project Plans, must be submitted to the Public Works Department, for issuance of an interpretation and/or decision by an authorized Public Works Department representative in accordance with the requirements of the Contract Documents. Interpretations or decisions by any other person concerning the Contract Documents will not be binding on the City. The decision of an authorized Public Works Department representative shall be final.

10. ASSIGNMENT PROHIBITED. The Contractor may not assign part or all of this Agreement, or any moneys due or to become under this Agreement, or any other right or interest of the Contractor under this Agreement, or delegate any obligation or duty of the Contractor under this Agreement without the prior written approval of an official authorized to bind the City and an authorized representative of Contractor's surety or sureties. Any such purported assignment or delegation without such written approval on behalf of the City and the Contractor's sureties will be void and a material breach of this agreement subject to all available remedies under this Agreement and at law and equity.

11. CERTIFICATION RE CONTRACTOR'S LICENSE. By signing this Agreement the Contractor certifies that the Contractor holds a valid Type A license issued by the California State Contractors Licensing Board, and that the Contractor understands that failure to maintain its license in good standing throughout the performance of the Work may result in discipline and/or other penalties pursuant to the California Business and Professions Code, and may constitute a material breach of this Agreement subject to all available remedies under this agreement and at law and equity.

12. SEVERABILITY. If any term or provision or portion of a term or provision of this Agreement is declared invalid or unenforceable by any court of lawful jurisdiction, then the remaining terms and provisions or portions of terms or provisions will not be affected thereby and will remain in full force and effect.

13. DEFINITIONS. All words as used in the Agreement shall be subject to the Definitions set forth in Section 1 of the General Provisions of the Notice to Contractors, Special Provisions, Proposal and Contract for the **Calvert Ct. Resurfacing Project.**

Executed on _____, 2011

RANSOME COMPANY

CITY OF PIEDMONT

Name of Signatory & Title

 Dean Barbieri, Mayor

[Attach Notary Page]

Attest:

 John Tulloch, Interim City Clerk

Approved as to Form and Legality:

 Tom Curry, City Attorney

