

REPORT

**To the Honorable Mayor and City Council
From the City Manager**

July 27, 2009

SUBJECT

2009-2010 Cost Shared Sidewalk Repair Program

RECOMMENDATION

Approve by motion the contract documents, accept the bid, and award the contract for the 2009-2010 Cost Shared Sidewalk Repair Program to SpenCon Construction Inc., of Foster City, CA, for the amount of \$241,025 and authorize the City Manager to increase the contract amount, if necessary, up to 10% of the amount awarded, and reject all other bids.

BACKGROUND

On June 9, 2009, staff advertised the subject contract and notified previous bidders the contract documents and specifications were available for their review and purchase. The proposed contract has been duly advertised and four sealed bids were received and opened in City Hall on July 1, 2009.

Bidder	Bid Amount
SpenCon Construction Inc.	\$241,025.00
Bay Area Paving, Inc	\$261,650.00
JJR Construction Inc.	\$269,526.04
Alpine Construction, Inc.	\$310,000.00
Engineer's Estimate	
\$218,000.00	
<u>Recommended Bidder:</u> SpenCon Construction Inc.	
<u>Substantiation:</u> Lowest Responsible Bid	

The lowest responsible bid is approximately ten percent above the Engineer's Estimate for this project. SpenCon was the primary contractor for last year's 100% sidewalk replacement project and they again are the contractor for this year's 100% sidewalk repair project. The Cost Shared project will repair damaged sidewalk, driveway approach and curb and gutter at any location in the City where the property owners agree to pay one-half the cost of the repair. The work will be performed at various sites on different streets throughout the city. The project also includes construction of wheel chair ramps and installation of tree grates per city details.

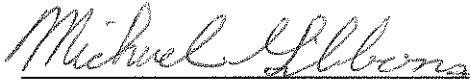
Staff maximizes preservation of retainable trees by the installation of poured-in-place rubber surfacing which is done in order to avoid root cutting. The Urban Forestry Specialist will inspect every tree site where there is conflict between the sidewalk and tree roots to make a decision, in conjunction with the project inspector, about how to proceed.

ALTERNATIVES


1. Award the contract to a higher bidder. Staff is confident the low bidder can complete the project.
2. Re-bid the contract. Staff does not believe a better price will be received through another bid.

FISCAL IMPACT

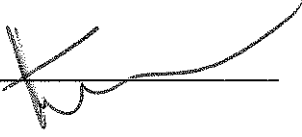
Funds totaling \$1,148,000 are available in the FY2009-2010 Capital Improvement Program Tree Preservation and Sidewalk Repair Program and funds totaling \$300,000 are available in the ADA Ramp Program.



Michael Gibbons
Public Works Superintendent



Larry Barwacz
Public Works Services Director



Peter Ingram
City Manager

ATTACHMENTS

Agreement

RELATED DOCUMENTS IN CITY CLERK'S OFFICE

1. Contract Documents
2. Bid Documents

SECTION 00520

**AGREEMENT
for the
City of Redwood City**

2009-2010 Cost Shared Sidewalk Repair Project

THIS AGREEMENT, made this _____ day of _____, 200____, by and between _____ whose place of business is at _____ hereinafter called "CONTRACTOR"; and the City of Redwood City, a Charter City and municipal corporation of the State of California, hereinafter referred to as "CITY".

In consideration of the mutual covenants hereinafter set forth, Contractor and City agree as follows:

I. WORK

- A. Contractor shall complete all Work specified in the Contract documents, in accordance with the Specifications, Drawings, and all other terms and conditions of the Contract documents.

II. CONTRACT SUM

- A. City shall pay the Contractor as the "Contract Sum" for completion of Work in accordance with the Contract documents, as the amount of **[\$ Amount]**, computed in accordance with Contractor's Accepted Proposal dated, **[Dates]**, which Proposal is incorporated herein by reference thereto as if fully set forth.
- B. The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Contractor, its subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of Contractor's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

III. CONTRACT TIME AND LIQUIDATED DAMAGES

- A. Contractor shall complete the Work within the following Schedule reflecting the date the Contract Time commences to run as set forth in Section 00550 (Notice to Proceed) and Section 00700 (General Conditions); and

1. Contractor shall achieve Substantial Completion of the Work within 365 Calendar Days from the date the Contract Time commences to run.

B. Liquidated Damages

1. City and Contractor recognize that time is of the essence of this Agreement and that City will suffer financial loss in the form of lost revenues, contract administration expenses (including project management and consultants' expenses), delay and loss of public use, if the Work is not completed within the time specified in paragraph III.A.1 above plus any extensions thereof allowed in accordance with the Contract documents. Consistent with Section 00700 (General Conditions), Contractor and City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by City because of a delay in completion of the Work.
2. Accordingly, City and Contractor agree that Contractor shall pay City **\$500** for each Day that expires after the time specified in Paragraph III.A.1 of this Section 00520 for Contractor to achieve Substantial Completion, until such date as contractor achieves Substantial Completion.

- C.** Liquidated damages for delay shall only cover and be in lieu of the actual damages suffered by City as a result of delay referenced above. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from defective work, cost of temporary replacement facilities, damages suffered by others who then seek to recover their damages from City (for example, delay claims of other contractors or subcontractors), and defense costs thereof.

D. Contract Period and Price Adjustments

The contract shall cover one (1) fiscal year period from approximately [DATE] through [DATE]. This contract may be extended by the City for up to four (4) consecutive years at the discretion and approval of the City. The City shall notify the Contractor in writing of the intent to extend the contract by June 1st of the current contract year. The price may be increased up to 5% from the preceding year based on approval by the City. The City in its discretion may base increases in the contract price on relevant fluctuations in the Construction Cost Index for the San Francisco Bay Area in the Engineering News Record.

- E.** The Contractor shall prepare all bonds and insurance documents in a timely manner to facilitate the contract extension.

IV. CITY'S ENGINEER AND REPRESENTATIVES

Reserved

V. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

In order to induce City to enter into this Agreement, Contractor makes the following representations and warranties:

- A. Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Work, Site, locality, actual conditions, as built conditions, and all local conditions and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the design and the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- B. Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, drawings or reports, available for design and construction purposes, of physical conditions, or which may be apparent at the Site and accepts the determination set forth in these Sections and Section 00700 (General Conditions) of the limited extent of the information contained in these Sections upon which the Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in these Sections.
- C. Contractor has considered the physical conditions at or contiguous to the Site or otherwise which may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of Contract documents, including specifically the provisions of the General Conditions.

VI. CONTRACT DOCUMENTS

The Contract documents which comprise the entire agreement between City and Contractor concerning the Work consist of the following:

- A. Contract documents consist of the following Sections, including all changes, addenda and modifications thereto, as listed on Section 00010 (Table of Contents):

Section 00430	Subcontractors List Form
Section 00481	Non-Collusion Affidavit
Section 00520	Agreement
Section 00550	Notice to Proceed
Section 00610	Faithful Performance Bond
Section 00620	Construction Labor and Material Payment Bond
Section 00680	Escrow Agreement
Section 00700	General Conditions
Section 00800	Special Conditions
Technical Specifications	Division 1 & 2, as listed in the Table of Contents
Drawings	Listed in the Table of Contents

- B. There are no Contract documents other than those listed above in this Part VI. The geotechnical, existing conditions and other information supplied under Part 6.26 of Section 00700 (General Conditions) is not part of the Contract documents. The Contract documents may only be amended, modified or supplemented as provided in Section 00700 (General Conditions).

VII. MISCELLANEOUS

- A. It is understood and agreed that in no instance is any person, signing this Agreement for or on behalf of City or acting as an employee or representative of City, liable on this Contract, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of City is limited and confined to such liability as authorized or imposed by the Contract documents or applicable law.
- B. In entering into a public contract or a subcontract to supply goods, services or materials pursuant to a public contract, the Contractor or subcontractor irrevocably offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act, (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time City tenders final payment to the Contractor, without further acknowledgment by the parties.
- C. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are available on the City's website (www.redwoodcity.org).
- D. This Contract shall be deemed to have been entered into in the County of San Mateo, and governed in all respects by California law (excluding conflicts of laws). Any action at law or in equity brought by either of the parties will be tried in a court of competent jurisdiction in the County of San Mateo, and the parties waive all other provisions of law providing for a change of venue in these proceedings to any other county.
- E. Contractor must have a City of Redwood City Business License prior to start of work.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

CITY: CITY OF REDWOOD CITY, a charter city and
municipal corporation of the State of California
1017 Middlefield Road
Redwood City, CA 94063

By: _____
Peter Ingram, City Manager

Attest:

Silvia Vonderlinden, City Clerk

CONTRACTOR:

*By: _____

**By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

If required by City, proper notarial acknowledgment of execution by Consultant must be attached. If a Corporation, Agreement must be signed by one corporate officer from each of the following two groups.

***Group A.**
Chairman,
President, **or**
Vice-President

****Group B.**
Secretary,
Assistant Secretary,
CFO **or** Assistant Treasurer

Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

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