



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Public Works

Prepared by: Bill Guerin,  
Director of Public Works

City Manager Approval: \_\_\_\_\_

File No.: 16.06.94

**TOPIC: FRANCISCO BOUVELARD EAST RESURFACING PROJECT**

**SUBJECT: RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR THE FRANCISCO BOUVELARD EAST RESURFACING PROJECT, CITY PROJECT NO. 11389, TO GHILOTTI CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF \$1,136,140.00, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$173,860.00, FOR A TOTAL APPROPRIATED AMOUNT OF \$1,310,000.00**

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**RECOMMENDATION:** Adopt the resolution awarding and authorizing the City Manager to execute a construction agreement for the Francisco Boulevard East Resurfacing Project to Ghilotti Construction Company, Inc. in the amount of \$1,136,140.00 and authorizing contingency funds in the amount of \$173,860.00, for a total appropriated amount of \$1,310,000.00.

**BACKGROUND:** Francisco Boulevard East is one of the busiest arterials in the City, used as a primary connector for several neighborhoods to downtown San Rafael, San Rafael High School, and other highly frequented destinations including Highway 101 and Interstate 580.

The Department of Public Works has almost completed construction of the Francisco Boulevard East Sidewalk Widening Project, which was funded through an Active Transportation Program (ATP) Federal Grant that focuses on pedestrian and bicycle improvements along the corridor. The funding for the sidewalk widening project did not allow resurfacing of the roadway as an acceptable use of the grant funds, so the Department of Public Works developed a separate resurfacing project sequentially with the construction of the sidewalk project.

The resurfacing project will include grinding the existing asphalt, placement of new hot mix asphalt with reinforcing pavement fabric, and new traffic striping on Francisco Boulevard East from Vivian Street to Grand Avenue.

On August 19, 2021, the project was advertised in accordance with San Rafael's Municipal Code.

**ANALYSIS:** On September 9, 2021, the following bids were received and read aloud:

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

<b><u>NAME OF BIDDER</u></b>	<b><u>AMOUNT</u></b>
Ghilotti Construction Company Inc.	\$1,136,140.00
Ghilotti Bros., Inc.	\$1,228,443.00

The construction bids have been reviewed by Public Works staff and the low bid from Ghilotti Construction Company Inc. in the amount of \$1,136,140.00 was found to be both responsive and responsible. City staff recommends awarding the construction contract to Ghilotti Construction Company Inc. for the amount bid, and also recommends the City Council authorize a construction contingency of approximately fifteen percent in an amount of \$173,860.00 for a total authorized amount of \$1,310,000.00.

**PUBLIC OUTREACH:** Staff has discussed this project for years with the community as part of the outreach for the Francisco Boulevard East Sidewalk Widening Project. In addition, Staff has posted updates on the Department of Public Works news blogs and added updates on the City's Francisco Boulevard East website.

**FISCAL IMPACT:** Staff proposes to appropriate construction funding for this project in the amount of \$1,310,000.00 utilizing State Bill 1 (SB1) Road Maintenance and Rehabilitation Account (RMRA) that deposits funds annually into the City's Gas Tax Fund #206.

**OPTIONS:**

1. Adopt the resolution as presented.
2. Do not award the contract and direct staff to rebid the project. If this option is chosen, rebidding will delay construction by approximately two months.
3. Do not award the contract and provide direction to staff.

**RECOMMENDED ACTION:** Adopt the resolution awarding and authorizing the City Manager to execute a construction agreement for the Francisco Boulevard East Resurfacing Project to Ghilotti Construction Company Inc. in the amount of \$1,136,140.00 and authorizing contingency funds in the amount of \$173,860.00, for a total appropriated amount of \$1,310,000.00

**ATTACHMENTS:**

1. Resolution awarding the construction agreement to Ghilotti Construction Company Inc.
2. Contract to be executed between the City and Ghilotti Construction Company Inc.

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR THE FRANCISCO BOULEVARD EAST RESURFACING PROJECT, CITY PROJECT NO. 11389, TO GHILOTTI CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF \$1,136,140.00 AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$173,860.00, FOR A TOTAL APPROPRIATED AMOUNT OF \$1,310,000.00**

**WHEREAS**, on the 9th day of September 2021, pursuant to due and legal notice published in the manner provided by law, inviting sealed bids or proposals for the work hereinafter mentioned, as more fully appears from the Affidavit of Publication thereof on file in the office of the City Clerk of the City of San Rafael, California, the City Clerk of said City did publicly open, examine, and declare all sealed bids or proposals for doing the following work in said City, to wit:

**“Francisco Boulevard East Resurfacing Project”**

**City Project No. 11389**

in accordance with the plans and specifications therefore on file in the office of the Department of Public Works; and

**WHEREAS**, the bid of \$1,136,140.00 from Ghilotti Construction Company Inc., at the unit prices stated in its bid, was and is the lowest and best bid for said work and said bidder is the lowest responsible bidder; and

**WHEREAS**, staff has recommended that the project budget include a contingency amount of \$173,860.00;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES** as follows:

1. The plans and specifications for the “Francisco Boulevard East Resurfacing Project”, City Project No. 11389 on file in the Department of Public Works, are hereby approved.
2. The City Manager is authorized and directed to execute a contract with Ghilotti Construction Company Inc. for the bid amount, subject to final approval as to form by the City Attorney, and to return the bidder’s bond upon the execution of the contract.

3. Funds for project totaling \$1,310,000.00 which includes the construction award amount and contingency, will be appropriated for City Project No. 11389, using \$1,310,000.00 in Gas Tax funds (Fund #206).
4. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 20<sup>th</sup> day of September 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

File No.: 16.06.94

**LINDSAY LARA, City Clerk**

## Contract

This public works contract ("Contract") is entered into by and between the City of San Rafael ("City") and Ghilotti Construction Company, Inc., a corporation authorized to do business in California ("Contractor"), for work on the Francisco Blvd. East Resurfacing Project (City Project No. 11389) ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On September 20, 2021, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
  - 2.1 Notice Inviting Bids;
  - 2.2 Instructions to Bidders;
  - 2.3 Addenda, if any;
  - 2.4 Bid Proposal and attachments thereto;
  - 2.5 Contract;
  - 2.6 Payment and Performance Bonds;
  - 2.7 General Conditions;
  - 2.8 Special Conditions;
  - 2.9 Project Plans and Specifications;
  - 2.10 Change Orders, if any;
  - 2.11 Notice of Potential Award;
  - 2.12 Notice to Proceed;
  - 2.13 Uniform Standards All Cities and County of Marin (available online at: <https://www.marincounty.org/-/media/files/departments/pw/engineering/2018-ucs-complete-set.pdf?la=en>); and
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.
4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor \$1,136,140.00 ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project, meeting all requirements for Final Completion, within 15 working days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of \$1,000 per day for each day of unexcused delay in

achieving Final Completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

**7. Labor Code Compliance.**

**7.1 General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.

**7.2 Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.

**7.3 DIR Registration.** City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.

**8. Workers' Compensation Certification.** Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

**9. Conflicts of Interest.** Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

**10. Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.

**11. Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

**City:**

Department of Public Works  
111 Morphew Street,  
San Rafael, CA, 94901  
Attn: Shawn Graf  
[Shawn.Graf@cityofsanrafael.org](mailto:Shawn.Graf@cityofsanrafael.org)

Copy to: Iman Kayani

**Contractor:**

Name: Ghilotti Construction Company, Inc.  
Address: 2301 Kerner Blvd.  
City/State/Zip: San Rafael, CA 94901  
Phone: (415) 256-1525  
Attn: Thomas Smith  
Email: [tom@ghilotti.com](mailto:tom@ghilotti.com)

Copy to:

**12. General Provisions.**

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.
- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Marin County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Marin County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code § 313.

The parties agree to this Contract as witnessed by the signatures below:

**CITY:**

Approved as to form:

s/ \_\_\_\_\_

s/ \_\_\_\_\_

Jim Schutz, City Manager

Robert F. Epstein, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

s/ \_\_\_\_\_

Lindsay Lara, City Clerk

Date: \_\_\_\_\_

**CONTRACTOR:**

\_\_\_\_\_ Business Name

s/ \_\_\_\_\_

Seal:

\_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

Second Signature (See Section 12.8):

s/ \_\_\_\_\_

\_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

\_\_\_\_\_  
Contractor's California License Number(s) and Expiration Date(s)

END OF CONTRACT