



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Bill Guerin,
Director of Public Works

City Manager Approval: 

File No.: 08.02.278

TOPIC: B STREET CULVERT REPLACEMENT PROJECT

SUBJECT: RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR B STREET CULVERT REPLACEMENT PROJECT, CITY PROJECT NO. 11380 TO MAGGIORA & GHILOTTI, INC. IN THE AMOUNT OF \$273,273 AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$46,727 FOR A TOTAL APPROPRIATED AMOUNT OF \$320,000.

RECOMMENDATION: Adopt the resolution awarding and authorizing the City Manager to execute a construction agreement with Maggiora & Ghilotti, Inc. in the amount of \$273,273, authorizing contingency funds in the amount of \$46,727, for a total amount of \$320,000.

BACKGROUND: This project consists of replacing an existing concrete box culvert located underneath B Street near the intersection of Woodland Avenue. The reinforced concrete box culvert conveys storm runoff from the Gerstle Park neighborhood into the San Rafael Creek. Approximately 100 feet of the box culvert will be removed and replaced with a new culvert section that will be cast in place at the project site.

On May 7, 2020, Public Works staff presented the project to the regulatory agencies at the Marin Project Coordination Meeting. After receiving feedback from the regulatory agencies, on June 8, 2020, the City hired the design consultant, Mark Thomas & Company, Inc., to prepare design plans for the project. On August 4, 2021, the Notice of Exemption was filed in accordance with CEQA regulations. Construction is anticipated to last three months.

ANALYSIS: On September 17, 2021, the project was advertised in accordance with San Rafael’s Municipal Code. On October 7, 2021, the following bids were received and read aloud:

<u>NAME OF BIDDER</u>	<u>AMOUNT</u>
Michael Paul Company, Inc.	\$269,174
Maggiora & Ghilotti, Inc.	\$273,273
Valentine Corporation	\$417,369
GECMS INC, dba Giron Construction	\$448,790

FOR CITY CLERK ONLY

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Ghilotti Bros., Inc.	\$472,977
Power Engineering	\$535,237
CF Contracting	\$659,690

The construction bids were reviewed by Public Works staff and the apparent low bidder was Michael Paul Company, Inc. However, after our bid analysis, it was found that a unit price in the bid submitted by Michael Paul Company, Inc. was considerably lower than the other six bids and, after inquiring with Michael Paul Company, it was found to be in error and Michael Paul Company asked to have their bid withdrawn. The next low bid from Maggiora & Ghilotti, Inc. in the amount of \$273,273 was found to be both responsive and responsible. City staff recommends awarding the construction contract to Maggiora & Ghilotti, Inc. for the bid amount and recommends the City Council authorize a construction contingency of approximately 17 percent for the project for a total authorized amount of \$320,000.

PUBLIC OUTREACH: Public Works has contacted affected neighbors, businesses, schools, and other groups to ensure that the public is aware of the upcoming construction project. This will be accomplished using various social media channels such as NextDoor, the City [website](#), and changeable message signs located at the intersection of the project site. All residents in the area have been notified of the removal of parking on B Street due to construction.

FISCAL IMPACT: In addition to the \$273,273 contract amount, staff recommends the City Council approve a contingency amount of \$46,727 for a total of project budget of \$320,000. The \$320,000 budget will be appropriated from the City's Gas Tax Fund (Fund #206).

OPTIONS:

1. Adopt the resolutions as presented, awarding the construction contract to Maggiora & Ghilotti, Inc.
2. Do not award the contract and direct staff to rebid the project. If this option is chosen, rebidding will delay construction.
3. Do not award the contract and direct staff to stop work on the project.

ATTACHMENT:

1. Resolution Awarding Construction Agreement to Maggiora & Ghilotti, Inc.
2. Draft Construction Agreement with Maggiora & Ghilotti, Inc.

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR B STREET CULVERT REPLACEMENT PROJECT, CITY PROJECT NO. 11380 TO MAGGIORA & GHILOTTI, INC. IN THE AMOUNT OF \$273,273 AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$46,727 FOR A TOTAL APPROPRIATED AMOUNT OF \$320,000.

WHEREAS, during routine inspections the City of San Rafael determined that the B Street culvert near the intersection of Woodland Avenue needed to be reconstructed to meet current design, structural, and safety standards, and since that time, the City has made progress toward replacing the reinforced box culvert, including preparing design plans, obtaining environmental clearance, and other tasks preliminary to construction of the new culvert; and

WHEREAS, on May 7, 2020, City staff presented the project to the regulatory agencies at the Marin Project Coordination Meeting; and

WHEREAS, having advertised and solicited construction bids in accordance with the City's Municipal Code, bids were received on the 7th day of October, 2021 for the following project entitled "B STREET CULVERT REPLACEMENT PROJECT" City Project Number 11380, in accordance with the plans and specifications therefore on file in the office of the Department of Public Works; and

WHEREAS, the bid of \$273,273 from Maggiora & Ghilotti, Inc. at the unit prices stated in its bid, was and is the lowest bid for said work and said bidder is the lowest responsible and responsive bidder; and

WHEREAS, City staff recommends an additional 17% of the bid price for contingencies in the amount of \$46,727;

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

1. The plans and specifications for the "B Street Culvert Replacement Project", City Project No. 11380 on the file in the Department of Public Works, are hereby approved.

2. The bid of Maggiora & Ghilotti, Inc. is hereby accepted at the unit prices stated in its bid, and the contract for said work and improvements is hereby awarded to Maggiora & Ghilotti, Inc., at the stated unit prices.
3. The City Manager is authorized and directed to execute the contract for the project with Maggiora & Ghilotti, Inc. at 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.
4. Funds totaling \$320,000, which includes the construction award amount and contingency will be appropriated for Project 11380 from Gas Tax Fund 206.
5. The Public Works Director 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 Council of said City on the 18th day of October 2021, by the following vote, to wit:

AYES: **COUNCILMEMBERS:**
NOES: **COUNCILMEMBERS:**
ABSENT: **COUNCILMEMBERS:**

LINDSAY LARA, City Clerk

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Contract

This public works contract ("Contract") is entered into by and between City of San Rafael and Maggiore & Ghilotti, Inc. for work on the B St Culvert Replacement 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 October 18, 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 \$273,273 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 60 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 \$500 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:

City of San Rafael Public Works
111 Morpew St
San Rafael, CA 94901

Attn: Theo Sanchez, Associate Civil Engineer
Theo.Sanchez@cityofsanrafael.org

Copy to: Director of Public Works
Email: Bill.Guerin@CityofSanRafael.org

Contractor:

Name: _____
Address: _____
City/State/Zip: _____
Phone: _____
Attn: _____
Email: _____
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/ _____

Name, Title

Name, Title

Date: _____

Date: _____

Attest:

s/ _____

Name, Title

Date: _____

CONTRACTOR: Maggiora & Ghilotti, Inc.
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