

Meeting Date: 10/15/2013

Report Type: Consent

Report ID: 2013-00752

Title: Purchase/Cooperative Agreement: Asphalt and Aggregate Materials (Reviewed 10/8/2013)

Location: Citywide

Issue: The Department of Public Works, Maintenance Services Division, Pavement Maintenance and In-Source Sections, has an ongoing need to purchase asphalt and aggregate materials.

Recommendation: Pass a Motion 1) approving the use of the County of Sacramento cooperative purchase agreement with Teichert Aggregates (WA00030873) and Granite Construction Co. (WA00030872) to purchase asphalt and aggregate materials in an amount not to exceed \$2.25 million with Teichert Aggregates and \$1.75 million with Granite Construction Co through September 30, 2014, or until the contract is no longer available for use through extension or early termination; 2) authorizing the City Manager or the City Manager's designee to execute the purchases specified above provided that sufficient funds are available in the budget adopted for the applicable fiscal year.

Contact: Gabriel Morales, Operations General Supervisor, (916) 808-2289; Juan Montanez, Maintenance Services Manager, (916) 808-2254, Department of Public Works

Presenter: None

Department: Public Works Department

Division:

Dept ID:

Attachments:

1-Description/Analysis

2-Background

3-Exhibit A-Contract-Teichert WA00030873

4-Exhibit A-Contract-Granite WA00030872

City Attorney Review

Approved as to Form
Gerald Hicks
10/4/2013 9:41:26 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
10/2/2013 10:26:58 AM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 10/3/2013 2:55:36 PM

Description/Analysis

Policy Considerations: The recommendations in this report are in accordance with the provisions of City Code Chapter 3.56 and Administrative Policy 4001 regarding the purchase of supplies and the use of cooperative purchase agreements and with Resolution No. 2013-0367, which requires additional posting time for labor agreements and agreements greater than \$1,000,000. City Council reviewed the preliminary report on October 8, 2013.

Economic Impacts: None.

Environmental Considerations:

California Environmental Quality Act (CEQA): The purchase of asphalt and aggregate materials has been determined to be exempt from the requirements of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA guidelines.

Sustainability Considerations: The purchase of supplies under this contract, meets the City of Sacramento's Sustainability Master Plan by improving and optimizing the transportation infrastructure. Whenever practical, Staff intends to purchase locally recycled aggregate materials available through the County purchase agreements to help reduce the over-consumption of natural resources.

Rationale for Recommendation: The Department of Public Works, Maintenance Services Division, Pavement Maintenance and In-Source Sections, have an ongoing need to purchase asphalt and aggregate materials.

The pricing terms and conditions of this agreement were offered and accepted through a competitive solicitation conducted by the County of Sacramento.

The use of cooperative purchasing Agreements is an alternative to City-conducted competitive bidding that usually results in lower costs through volume purchasing by combining resources and requirements with other government agencies or public jurisdictions.

The City has used both regional and national cooperative purchase agreements to complement its own contracting initiatives. Cooperative purchasing enables City departments and the Procurement Services Division to evaluate a broader range of contracting opportunities and to share resources with other jurisdictions. Cooperative purchasing also leverages internal and external resources to maximize cost savings opportunities for the City.

Financial Considerations: Purchases will be made from the Department of Public Works, Maintenance Services Division, Pavement Maintenance and In-Source Sections, operating budget (15001631, 15001651) and CIPs that support street maintenance (including, but not limited to, R15142000 Street Overlay and Seal Program). Sufficient funding exists in the FY2013/14 operating budget and CIPs for purchases made through

June 30, 2014. Purchases made after June 30, 2014, are subject to funding availability in the adopted budget for the applicable fiscal year. The County Cooperative Purchase Agreement is valid through September 30, 2014.

There is no cost or fee to the City of Sacramento for the use of the County of Sacramento's Cooperative Purchasing Agreement.

Emerging Small Business Development (ESBD): Cooperative Purchasing Agreements are created, evaluated, and awarded by other government agencies that may or may not have similar emerging and small business programs. It would also be difficult for small and emerging small business to provide the volume of asphalt and aggregate materials needed for the maintenance of the City's roadways.

Background

Maintenance Services performs routine work each year to keep the pavement as close as possible to its original newly constructed condition. This provides maximum benefit to the traveling public by enhancing safety and improving ride comfort of the road surface.

Maintenance Services uses thousands of tons of asphalt and aggregate material each year to fill potholes, maintain alleyways, and perform routine maintenance on city streets.

In accordance with City Code 3.56.240, the City Manager may, by the use of Cooperative Purchasing Agreements approved by the City Council, purchase asphalt and aggregate materials through contracts of other governmental jurisdictions or public agencies without separate competitive bidding, where it is advantageous to the City.

The aggregate and asphalt materials purchased through the cooperative use of the County purchase agreements will be used to maintain the safety and efficiency of the City's transportation corridors, optimizing and improving the transportation infrastructure.

will be at the County's discretion, subject to established terms, conditions, prices, and agreement between the Contractor and the County.

Prices: The County shall receive prices equal to or better than the those given to Caltrans or offeror's most favored customers. Except for asphaltic products, prices quoted for the initial term shall be "firm" for the entire period. Price increases on any subsequent extension may not exceed the price increase to Caltrans or offeror's most favored customers. For verification purposes, the County shall receive a copy of letters to Caltrans and to the offeror's most favored customers, indicating the price increase and effective date. Conversely, shall there be a general decline in prices, such lower prices shall immediately be extended to the County.

Prices for asphaltic products shall be adjusted up or down according to the Statewide Paving Index. The base month will be August, 2013. The index can be found on the Caltrans web site www.dot.ca.gov/hq/esc/oe/ac.

Prices quoted shall be at the seller's plant loaded in trucks provided by Sacramento County (except ready-mix concrete which shall be delivered to job site by the seller).

The County of Sacramento shall not be bound to purchase minimum quantities of any material.

Tax: Prices quoted by the seller shall not include any sales or use taxes. Furthermore, prices quoted shall be exclusive of federal excise tax. The County will provide a federal excise tax exemption certificate upon request.

Materials: All materials furnished shall be in accordance with the County of Sacramento, Public Works Agency, Standard Construction Specifications January 1, 2010. Providing materials not in compliance may result in immediate cancellation of contract.

All materials are subject to inspection and approval by the County Engineer. He or his authorized representatives shall have access at all times to the material stocks from which the County is supplied, and shall be furnished with every reasonable facility and assistance for ascertaining that the materials are in accordance with the requirements and intent of the specifications. The inspection of the materials does not relieve the seller of any obligation to furnish materials in accordance with the aforementioned standard construction specifications.

The seller shall immediately remove any rejected or condemned material brought to the work site or incorporated in the work, at his or her own expense. Rejected or condemned materials shall never again be offered to the County. Additionally, as a remedy, the County may deduct and retain the cost to replace the work from any sums due or to become due to the seller.

Ordering Procedure:

The using department shall direct trucks to the plant where the County realizes the lowest overall total price per job, as follows:

- (1) Consider the total cost of materials: Sum of [quantity times the cost per ton for each product];
- (2) Consider the total cost for delivery: [Hauler's hourly rate times the time (hours:minutes) it takes the hauler to reach the job site from the seller's plant times] times [the number of trips required after factoring in tonnage capacity of trucks]; and
- (3) Add the total cost of materials with the total cost for delivery to determine overall price from the seller.
- (4) Repeat above steps 1-3 with other sellers stocking the materials required and who are located within close proximity of the job until a comparison can be made as to which seller offers the lowest overall total price.

Exceptions: The lowest overall total price may be rejected in favor of the next lowest overall total price when one or more of the following conditions occur:

- (1) Material does not meet specifications;
- (2) Material is needed right away and the seller does not have an adequate supply on hand; and
- (3) Seller's plant does have not sufficient equipment to load the trucks on a timely basis, for the quantities required.

Restrictions:

Orders for asphaltic concrete shall not exceed 3,000 tons for any single county construction project.

No single purchase of any one item shall exceed \$6,500 without the prior approval from County Purchasing.

Packing Slip: Each delivery must be accompanied with a legible packing slip, showing quantities, item descriptions, contract number and contract shipping order number (CSO.#).

Weighmaster's Tag: A copy of the weighmaster's tag shall accompany invoices to verify the material charges. Weighmaster's tag shall indicate the "ship to" address (entity placing the order).

Safety Requirement: All services and merchandise must comply with current safety orders of the California Department of Industrial Relations and CAL/O.S.H.A. (California/Occupational Safety and Health Administration).

Hazardous Materials: All materials subject to the requirements of the California Code of Regulations, Title 8, Article 110, Sections 5194

must be identified.

Material Safety Data Sheet: It is required by law that all hazardous materials be accompanied with a "material safety data sheet" (MSDS) at time of delivery.

Changes: Should the County at any time during the term of the contract, request any additions, deletions or corrections, it shall be at liberty to do so, and the same shall in no way affect or make void this agreement, but will be added to or deducted from, as the case may be, by a fair and reasonable valuation.

Estimated Quantities: The quantities listed are estimates for the year. The County does not guarantee to purchase a minimum quantity.

Unrestricted Quantities: The County is not limited to purchase all of its requirements from any contract resulting from this RFB/award.

Indemnification: The Contractor shall indemnify, defend and hold harmless County, its officers, agents, employees, and representatives, from and against any and all claims, losses, liabilities, or damages, demands and action including payment of reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of the contractor, its officers, agents, employees, representatives, or anyone directly or indirectly acting on behalf of the contractor, regardless of whether caused in part by a party indemnified hereunder.

Non-assignment: Contractor shall neither assign nor subcontract any of the services required hereunder without prior approval from the County. It shall be agreed that any subcontracting shall be solely between the Contractor and the subcontractor. Contractor shall remain responsible for the performance on the contract, and the party dealing directly with the County.

Integration Clause: This contract constitutes the entire contract between the County and the contractor regarding the subject matter of the contract. Any prior agreements, whether oral or written, between the County and the contractor regarding the subject matter of this contract are hereby terminated effective immediately upon full execution of this contract. No modification or amendment to this contract shall be valid unless it is set forth in writing and is signed by the parties hereto.

Compliance with all Laws: Contractor shall comply with all applicable federal, state, and local statutes, ordinances, regulations, directives, and laws and this contract shall be deemed to be executed with the state of California and construed with and governed by the laws of the state of California.

Invoicing: For payment purposes, the vendor shall obtain a "contract shipping order number (CSO#)" from the county customer for each separate order/ invoicing. These are individually numbered for control purposes, and each separate order/invoicing will require a unique CSO# to be issued to the vendor by the county customer.

Prepare invoices in duplicate. Include both the CSO# and Contract#. Send the original and duplicate copies of invoices to the ordering department's "bill to" address.

Invoices are to be rendered in arrears.

Each invoice shall be accompanied by one copy of each weighmaster's tag represented by charges on the invoice. Each tag shall indicate the destination of the material

Termination:

A.County may terminate any resulting agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by County to contractor and it is later determined that contractor was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).

B.County may terminate any resulting agreement for cause immediately upon giving written notice to contractor, should contractor materially fail to perform any of the covenants contained in this agreement in the time and/or manner specified. In the event of such termination, County may proceed with the work in any manner deemed proper by County. If notice of termination for cause is given by County to contractor and it is later determined that contractor was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (a) above.

C.County may terminate or amend any resulting agreement immediately upon giving written notice to contractor, 1) if advised that funds are not available from external sources for this agreement or any portion thereof, including if distribution of such funds to the County is suspended or delayed; 2) if funds for the services and/or programs provided pursuant to this Agreement are not appropriated by the State; 3) if funds in County's yearly proposed and/or final budget are not appropriated by County for this agreement or any portion thereof; or 4) if funds that were previously appropriated for this agreement are reduced, eliminated, and/or re-allocated by County as a result of mid-year budget reductions.

D.If any resulting agreement is terminated under paragraph A or C above, contractor shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph a or c above, contractor shall be paid an amount which bears the same ratio to the total compensation authorized by the agreement as the services actually performed bear to the total services of contractor covered by this agreement, less payments of compensation previously made. In no event, however, shall County pay contractor an amount which exceeds a pro rata portion of the agreement total based on the portion of the agreement term that has elapsed on the effective date of the termination.

E. Contractor shall not incur any expenses under any resulting agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that contractor can legally cancel.

Public Agency Participation: It is intended that any other public agency including those identified in the solicitation (i.e., city, district, public authority, public agency, municipality and other political sub-division or public corporation of California) located in California shall have the option to participate in any award made as a result of this solicitation. The County of Sacramento shall incur no financial responsibility in connection with orders issued or delivered by another public agency. Each public agency using this contract shall accept sole and full responsibility for placing of orders and making payments to the contractor. In addition to the above, the contractor shall provide the same level of indemnification and insurance protection to each of the participating agencies ordering products and/or services under any award made as a result of this solicitation.

Item	Tgt. qty.	Unit	Price	Unit of	Extended
Mat Num		Description	/ Unit	Measure	Value
00010	1,000,000	Dollar Agg. & Asphalt Materials-Price Attached	1.00	/ 1 \$	1,000,000.00

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