

**RESOLUTION NO. 2011 - 44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK  
APPROVING AND ADOPTING THE PLANS AND SPECIFICATIONS FOR THE 2011  
VARIOUS STREETS OVERLAYS, PROJECT NO. 2010-09, AWARDING THE CONTRACT TO  
GHILOTTI BROS, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT DOCUMENTS**

**WHEREAS**, the plans and specifications for the 2011 Various Streets Overlay Project No. 2010-09 ("the Project") were prepared by Winzler & Kelly Consulting Engineers;

**WHEREAS**, the plans and specifications for the 2011 Various Streets Overlay Project No. 2010-09 were approved by the Deputy City Engineer;

**WHEREAS**, the Project was advertised for bids and bids were opened on June 2, 2011;

**WHEREAS**, the City received 4 bids;

**WHEREAS**, Winzler & Kelly Consulting Engineers reviewed all 4 bids for responsiveness;

**WHEREAS**, Ghilotti Bros, Inc. submitted the lowest cost bid; and

**WHEREAS**, it has been determined that Ghilotti Bros, Inc. is the lowest responsive and responsible bidder.

**NOW, THEREFORE**, be it resolved by the City Council of the City of Rohnert Park that the plans and specifications for the 2011 Various Streets Overlays Project are approved and adopted.

**BE IT FURTHER RESOLVED** that the bids for the 2011 Various Streets Overlays Project are accepted, and that Ghilotti Bros., Inc. was the lowest responsive and responsible bidder.

**BE IT FURTHER RESOLVED** that the contract for the Project is awarded to Ghilotti Bros., Inc. , for the amount of \$587,827.50.

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized and directed to execute a contract in substantially similar form to the contract attached hereto as Exhibit A for and on behalf of the City of Rohnert Park; and is also authorized to approve cumulative contract change orders up to twenty percent (20%) of the value of the original contract price.

**DULY AND REGULARLY ADOPTED** by the City Council of the City of Rohnert Park this 14<sup>th</sup> day of June, 2011.

**CITY OF ROHNERT PARK**



Mayor

**ATTEST:**

*[Signature]*  
City Clerk

AHANOTU: <u>AYE</u>	CALLINAN: <u>AYE</u>	MACKENZIE: <u>ABSENT</u>	STAFFORD: <u>AYE</u>	BELFORTE: <u>AYE</u>
AYES: (4)	NOES: (0)	ABSENT: (1)	ABSTAIN: (0)	

CONTRACT

2011 VARIOUS STREETS OVERLAY PROJECT

PROJECT NO. 2010-09

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Ghilotti Bros., Inc., hereinafter called "Contractor", and the City of Rohnert Park, hereinafter called "City".

WITNESSETH:

WHEREAS, the City Council of said City has awarded a contract to Contractor for performing the work hereinafter mentioned in accordance with the sealed proposal of said Contractor.

NOW, THEREFORE, IT IS AGREED, as follows:

1. Scope of Work: The Contractor shall perform all the work and furnish all the labor, materials, equipment and all utility and transportation services required to complete all of the work of construction and installation of the improvements more particularly described in the Plans and Specifications adopted by Resolution by the City Council of said City on June 14, 2011, the items and quantities of which are more particularly set forth in the Contractor's bid therefor on file in the office of the City Clerk, except work done or to be done by others.

2. Time of Performance and Liquidated Damages: The Contractor shall begin work within fifteen (15) calendar days after official notice by the City Engineer to proceed with the work and shall diligently prosecute the same to completion within 90 calendar days of that Notice.

In the event the Contractor does not complete the work within the time limit so specified or within such further time as said City Council shall have authorized, the Contractor shall pay to the City liquidated damages in the amount of \$1,100 per day for each and every day's delay in finishing the work beyond the completion date so specified. Additional provisions with regard to said time of completion and liquidated damages are set forth in the specifications, which provisions are hereby referred to and incorporated herein by reference.

3. Payments: Payments will be made by City to the Contractor for said work performed at the times and in the manner provided in the specifications and at the unit prices stated in Contractor's bid.

The award of the contract is for a total amount of \$587,827.50.

4. Component Parts: This contract shall consist of the following documents, each of which is on file in the office of the City Clerk and all of which are incorporated herein and made a part hereof by reference thereto:

- a) This Agreement
- b) Notice Inviting Sealed Proposals
- c) Instruction and Information to Bidders

- d) Accepted Proposal
- e) Faithful Performance Bond
- f) Labor and Material Bond
- g) Special Provisions
- h) Standard Specifications
- i) Design Standards
- j) Plans, Profiles and Detailed Drawings

5. Wage Scale: Pursuant to Section 1773 of the Labor Code of the State of California, the City has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holidays and overtime work for each craft, classification, or type of workman required to execute the contract. A copy of said prevailing rate of per diem wages is on file in the office of the City Clerk, to which reference is hereby made for further particulars. Said prevailing rate of per diem wages will be made available to any interested party upon request, and a copy thereof shall be posted at the job site. The provisions of Article 2, Chapter 1, Part 7, Division 2 (commencing with Section 1770) of the Labor Code and particularly Section 1775 thereof, shall be complied with.

Notice is hereby given that, pursuant to Section 1776(g) of the Labor Code of the State of California that the Contractor shall make available as required in this Section of the Labor Code certified payroll records and that penalties for violation of the section may be enforced.

6. Hours of Labor: The Contractor shall forfeit, as penalty to said City, Twenty-five Dollars (\$25.00) for each workman employed in the execution of the contract by him or by any subcontractor, for each calendar day during which any workman is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2 (commencing with Section 1810) of the Labor Code of the State of California.

7. Apprentices: In accordance with the provisions of Section 1777.5 of the Labor Code, and in accordance with the rules and procedures of the California Apprenticeship Council, properly indentured apprentices shall be employed in the prosecution of the work. The ratio of apprentices to journeymen who shall be employed in the respective crafts or trades may be the ratio stipulated in the apprenticeship standards under which the appropriate joint apprenticeship committee operates. In no event shall the ratio be less than one apprentice for each five journeymen unless a certificate of exemption has been issued by the Division of Apprenticeship Standards. Willful failure by the Contractor to comply with said Section 1777.5 shall result in his being denied the right to bid on a public works contract for a period of six months from the date the determination is made.

Information relative to number of apprentices, identifications, wages, hours of employment and standards of working conditions shall be obtained from the Director of the Department of Industrial Relations, who is the Administrative Officer of the California Apprenticeship Council.

8. Labor Discrimination: Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise

provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter. "

9. Workmen's Compensation Insurance: In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the Contractor is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Workmen's Compensation Insurance.

The undersigned Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

10. Indemnify: To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, release and defend City, its officers, elected officials, employees, agents, volunteers, and consultants from and against any and all actions, claims, demands, damages, disability, losses, expenses including, but not limited to, attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity including Contractor, in whole or in part, arising out of Contractor's activities hereunder, including the activities of other persons employed or utilized by Contractor in the performance of this Agreement excepting liabilities due to the active negligence of the City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Contractor under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Contractor and shall continue to bind the parties after termination/completion of this Agreement.

11. Attorneys Fees: In the event either party hereto shall commence any legal action or procedure, including an action for declaratory relief, against the other, by reason of the alleged failure of the other to perform or keep any term, covenant, or condition of this contract by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, a reasonable attorneys fee to be fixed by the court, and such recovery shall include court costs and attorneys fees on appeal, if any.

12. Substitution of Securities for Withheld Amounts: Pursuant to California Public Contracts Code Section 22300, securities may be substituted for any moneys withheld by a public agency to ensure performance under a contract. At the request and sole expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the Contractor upon satisfactory completion of the contract.

Securities eligible for substitution under this section shall include those listed in the California Public Contracts Code Section 22300 or bank or savings and loan certificates of deposit.

The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain as a minimum the following provisions:

- a. The amount of securities to be deposited;
- b. The terms and conditions of conversion to cash in case of the default of the Contractor; and
- c. The termination of the escrow upon completion of the contract.

IN WITNESS WHEREOF, the City of Rohnert Park has caused these presents to be executed by its officers, thereunto duly authorized, and Contractor has subscribed same, all on the day and year first above written.

CITY OF ROHNERT PARK

GHILOTTI BROS., INC.

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael M. Ghilotti  
President

\_\_\_\_\_  
Date

Per Resolution No. 2011-44 adopted by the Rohnert Park  
City Council at its meeting of June 14, 2011.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney