

RESOLUTION NO. 2012- 93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING AN AGREEMENT WITH WILDCAT ENGINEERING FOR 2012 SIDEWALK ACCESS RAMP ADA UPGRADES PROJECT NO. 2012-02

WHEREAS, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the city's purchasing functions shall be governed by the city's purchasing policy; and

WHEREAS, consistent with City of Rohnert Park Purchasing Policy Section 3.6.6F *Contracts for Public Projects* which defers to the Uniform Construction Cost Accounting Procedures (UCCAP) set forth in the Uniform Public Construction Cost Account Act, an invitation to bid was posted/published on June 20, 2012; and

WHEREAS; in May, 2011, the Sonoma County Board of Supervisors approved a Community Development Block Grant (CDBG) for \$73,341.00, minus \$3,475.00 expended for environmental clearance; and

WHEREAS, the plans and specifications for the 2012 Sidewalk Access Ramp ADA Upgrades Project were designed by City Staff, and approved by the Deputy City Engineer; and

WHEREAS, the Project was advertised for bids and a bid was opened on July 10, 2012; and

WHEREAS, Development Services staff reviewed this bid for responsiveness; and

WHEREAS, Development Services staff determined that Wildcat Engineering submitted the lowest cost bid and is the lowest responsive and responsible bidder.

WHEREAS, the City Council determined that the Project is exempt from the requirements of the California Quality Act (CEQA) pursuant to the following authorities:

1. Section 15301 of the State CEQA Guidelines, the repair and maintenance of existing public facilities, including existing streets, sidewalks, gutters and bike paths, is Categorically Exempt from the provisions of CEQA (Class 1 – Existing Facilities). The project involves no expansion of an existing use. There are no federally listed or candidate species, or suitable habitat, or Critical Habitat within the construction area. There is no substantial evidence that there would be a significant adverse environmental impact associated with the project.
2. Section 15302 of the CEQA Guidelines, replacement and/or reconstruction of an existing facility for the same purpose and capacity is Categorically Exempt from the provisions of CEQA; and

WHEREAS, staff intends to reduce the scope of work in order to construct the project within the available funding contained in the Five-Year Capital Improvement Program project budget approved by Council on June 26, 2012, by Resolution No. 2012-67.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that the plans and specifications for the 2012 Sidewalk Access Ramp ADA Upgrades, Project No 2012-02 are approved and adopted.

BE IT FURTHER RESOLVED that the bid for the 2012 Sidewalk Access Ramp ADA Upgrades is accepted, and that Wildcat Engineering was the lowest responsive and responsible bidder.

BE IT FURTHER RESOLVED THAT the contract is awarded to Wildcat Engineering for the amount of Eighty-three Thousand Two Hundred Fifty-three Dollar and zero cents (\$83,253.00).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve an agreement by and between Wildcat Engineering, a California Corporation, and the City of Rohnert Park, a municipal corporation, for the 2012 Sidewalk Access Ramp ADA Upgrades Project No. 2012-02.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to take all actions to effectuate this agreement for and on behalf of the City of Rohnert Park, including execution, if necessary, in substantially similar form to the agreement attached hereto as Exhibit "A," subject to minor modifications by the City Manager or City Attorney.

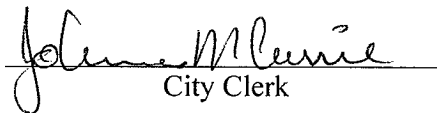
DULY AND REGULARLY ADOPTED this 14th day of August, 2012.

CITY OF ROHNERT PARK



Mayor

ATTEST:



City Clerk



AHANOTU: Aye BELFORTE: Absent CALLINAN: Aye STAFFORD: Aye MACKENZIE: Aye
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)

Exhibit "A"

C O N T R A C T

2012 SIDEWALK ACCESS RAMP ADA UPGRADES
PROJECT NO. 2012-02

THIS AGREEMENT, made and entered into this 14th day of August, 2012, by and between Wildcat Engineering, Inc., hereinafter called "Contractor", and the City of Rohnert Park, hereinafter called "City".

W I T N E S S E T H :

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 Resolution adopted by the City Council of said City on August 14, 2012, the items and quantities of which are more particularly set forth in the Contractor's bid therefore 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 45 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 \$200 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 \$83,253.00

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 and Technical Specifications
- h) Standard Specifications
- i) Design Standards
- j) Plans, Profiles and Detailed Drawings
- k) Funding Agreement

In addition, all the provisions of the City of Rohnert Park 2012 Sidewalk Access Ramp ADA Upgrades Agreement for Use of Community Development Block Grant Funds, FY 2011-2012 Federal Program Funds, in its entirety, are included in and made part of this contract.

5. Wage Scale: The City of Rohnert Park has obtained from the Sonoma County Community Development Commission, the Federal Wage Decision listing the General prevailing wages and fringes in the County in which said work is to be performed for each craft and type of worker or mechanic needed to execute the contract. A copy of the Federal Wage Decision is included in the bid documents. The successful Contractor shall post said prevailing wage rates in a prominent place at the job site. If there is a discrepancy or difference between the state prevailing wage rate and the federal prevailing wage rate, the higher rate will apply. A statement of the prevailing wage rate is on file in the office of the Rohnert Park City Clerk, 130 Avram Avenue, Rohnert Park, California, 94928.

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, consultants, and Sonoma County Community Development Commission 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 including subcontractors hired by the 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.

13. Community Development Block Grant Requirements: All the provisions of the City of Rohnert Park 2012 Sidewalk Access Ramp ADA Upgrades Agreement for Use of Community Development Block Grant Funds, FY 2011-2012 Federal Program Funds, in its entirety, are included in and made part of this contract. A sample of the City of Rohnert Park 2012 Sidewalk Access Ramp ADA Upgrades Agreement for Use of Community Development Block Grant Funds, FY 2011-2012 Federal Program Funds, in its entirety, is on file in the office of the Rohnert Park City Clerk, 130 Avram Avenue, Rohnert Park, California.

The City of Rohnert Park has obtained from the Sonoma County Community Development Commission, the Federal Wage Decision listing the general prevailing wages and

fringes in the County in which said work is to be performed for each craft and type of worker or mechanic needed to execute the contract. A copy of the Federal Wage Decision is included in the bid documents. The successful Contractor shall post said prevailing wage rates in a prominent place at the job site. If there is a discrepancy or difference between the state prevailing wage rate and the federal prevailing wage rate, the higher rate will apply. A statement of the prevailing wage rate is on file in the office of the Rohnert Park City Clerk, 130 Avram Avenue, Rohnert Park, California.

All conditions stated in the Invitation for Sealed Bids, Instructions to Bidders, Bidder's Proposal, General Conditions, Guaranty, Special Conditions, Technical Specifications, Federal Labor Standards Provisions, Federal Prevailing Wage Decision, all addenda and modifications, and drawings, plans and specifications and any other Contract Documents, all of which are necessary and essential parts of this contract, are incorporated herein and hereby made a part of this contract as though fully set forth herein at length and in accordance herewith but without waiving, excluding, amending or modifying performance in compliance with any of the foregoing.

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

WILDCAT ENGINEERING, INC.

City Manager Date
Per Resolution No. 2012- 93 adopted by the Rohnert Park
City Council at its meeting of August 14, 2012.

Name/Title Date

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney