

RESOLUTION NO. 2014-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACCEPTING BIDS, DECLARING THE APPARENT LOW BIDDER, FRANK & SON PAVING, INC. TO BE NON-RESPONSIVE, WAIVING A MINOR DEFECT IN THE LOWEST RESPONSIVE BID RECEIVED, AWARDING THE CONTRACT FOR THE "PAVEMENT MINOR REHABILITATION FY13/14 (RUBBERIZED PAVEMENT GRANT PROGRAM – CHIP SEAL) (STL397)" PROJECT TO COPP CONTRACTING INCORPORATED IN THE AMOUNT OF \$1,812,572.00, REDUCING THE STL383 BUDGET BY \$434,098 AND APPROPRIATING THE EQUIVALENT AMOUNT TO STL397, WAIVING CITY COUNCIL POLICY 574-01 AND AUTHORIZING THE EXPENDITURE OF ALL AVAILABLE CONTINGENCY FUNDS NOT TO EXCEED \$271,885.80 (4/5 VOTE REQUIRED)

WHEREAS, City staff prepared specifications for the “Pavement Minor Rehabilitation FY13/14 (Rubberized Pavement Grant Program – Chip Seal) (STL397)” and advertised the project on April 18, 2014; and

WHEREAS, on May 7, 2014, the Director of Public Works Engineering received six (6) sealed bids for the project as follows:

	CONTRACTOR	SUBMITTAL RESULTS	BID TOTAL SUBMITTED
1	Frank & Son Paving, Inc. – Chula Vista, CA	Did not meet the required 40% of work to be performed by contractor. \$0.40 math error. Actual bid total is \$1,652,576.90	\$1,652,576.50
2	COPP Contracting, Inc. – Buena Park, CA	All requirements met but with mathematical error. Corrected bid total is \$16,972.50 lower than submitted. Actual bid total is \$1,812,572.00.	\$1,829,544.50
3	TC Construction Co., Inc. – Santee, CA	All requirements met	\$1,968,650.50
4	Pavement Coatings Co. – Jurupa Valley, CA	All requirements met	\$1,992,658.30

	CONTRACTOR	SUBMITTAL RESULTS	BID TOTAL SUBMITTED
5	American Pavement System, Inc. – Modesto, CA	All requirements met	\$2,038,546.50
6	VSS International – West Sacramento, CA	All requirements met	\$2,224,120.00

WHEREAS, Staff implemented a lowered requirement of 40% prime contractor participation using its own organization to perform the contract work for this pavement rehabilitation project to attract additional bidders.

WHEREAS, the apparent low bidder, Frank & Son Paving Incorporated, submitted a bid with only a 34.49% Contractor participation from their organization instead of the required 40% minimum as outlined in Section 9, Subcontracting, of the Project Specification entitled “Proposal Requirements and Conditions”; and

WHEREAS, Frank & Son Paving Incorporated provided additional material that redistributed work on the bid items between their firm and the subcontractors. It was determined that these additional submittals were changes to the bid, not corrections, and as such, in order to preserve the integrity of the sealed bid process, should not be considered; instead the original bid submission needed to be used to evaluate bid responsiveness; and

WHEREAS, on this basis, staff determined that the Frank & Son Paving Incorporated apparent low bid was “non-responsive” because it failed to meet the minimum 40% work participation requirement clearly spelled out in the bid specifications; and

WHEREAS, staff reviewed the second low bid submitted by Copp Contracting Inc. (“Copp”)and, with the exception of a mathematical error of \$16,972.50 in favor of the City, determined that the Copp bid met all bid specifications and was responsive; and

WHEREAS, Copp has agreed to honor the corrected bid price; and

WHEREAS, staff further determined that Copp is a responsible bidder with the licenses and capacity necessary to perform the work, verified references and satisfactory work performance on previous City projects; and

WHEREAS, the bid submitted by Copp is below the Engineer’s estimate of \$2,023,740 by \$211,168 (or approximately 10.43% below the Engineer’s estimate); and

WHEREAS, in consideration of the above, staff is recommending the award of the contract to Copp; and

WHEREAS, because Copp's bid contained a defect, in order to award the contract to Copp, pursuant to City Charter Section 1009, the City Council must hold a public hearing and find that the waiver is necessary for the benefit of the public; and

WHEREAS, staff recommends that the City Council make this finding with respect to Copp's bid because the defect is minor and inconsequential, and did not give Copp an advantage over other bidders; and

WHEREAS, a City Council waiver of the defect on this basis would be consistent with good purchasing practices, applicable case law, and staff's pattern and practice in this area; and

WHEREAS, the total "Pavement Minor Rehabilitation FY13/14 (Rubberized Pavement Grant Program – Chip Seal) (STL397)" project is anticipated to cost \$2,356,343.60 including \$543,771.60 for contingencies, staff time, material testing and other cost; and

WHEREAS, the following transfer is recommended in order to provide sufficient funds for construction costs associated with this project;

- Transfer \$434,098 from STL383 to STL397(Gas Tax Funds); and

WHEREAS, under Council Policy No. 574-01, the Director of Public Works may approve a contract increase up to \$113,628.60, based upon the base contract amount. It is recommended that the Director of Public Works be authorized to approve change orders, as necessary, up to the maximum 15% contingency amount of \$271,885.80, which is an increase of \$158,257.20 over Policy No. 574-01 in order to continue the project without delay.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista does hereby accept bids for the "Pavement Minor Rehabilitation FY13/14 (Rubberized Pavement Grant Program – Chip Seal) (STL397)" project, and declare the apparent low bidder, Frank & Son Paving, Inc. to be non-responsive for failing to meet the 40% prime contractor work participation requirement clearly spelled out in the bid specifications

BE IT FURTHER RESOLVED, that the City Council of the City of Chula Vista, having considered the recitals set forth above, and the evidence presented in the documents and testimony at the public hearing, finds that the error in the bid from Copp Contracting Incorporated is minor, inconsequential, and in favor of the City and that it is necessary for the public interest to waive the error and accept the bid.

BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does hereby transfer and appropriate \$434,098 from STL383 (Prop 42 Pavement Rehabilitation FY2011-12) to STL397 (Pavement Minor Rehabilitation FY13/14) to cover

Resolution No. _____

Page 4

the construction and staff costs associated with STL397 (Pavement Minor Rehabilitation FY13/14) within the Gas Tax Fund.

BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does hereby award the contract for the "Pavement Minor Rehabilitation FY13/14 (Rubberized Pavement Grant Program – Chip Seal) (STL397)" project to Copp Contracting Incorporated in the amount of \$1,812,572.00, waive City Council Policy 574-01 and authorize the Director of Public Works to spend all available contingency funds in an amount not to exceed \$271,885.80.

Presented by:

Approved as to form by:

Richard A. Hopkins
Director of Public Works

Glen R. Googins
City Attorney