



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** February 14, 2017

**TO:** Mayor and Councilmembers

**FROM:** Transportation Division, Public Works Department

**SUBJECT:** Approval Of After-The-Fact Purchase Orders For Pavement Maintenance And Repairs

**RECOMMENDATION:** That Council:

- A. Authorize the General Services Manager to award a Purchase Order to Central Coast Engineering, for hauling and delivery of asphalt material, in an amount not to exceed \$64,276, for services previously provided for the Pilot Pavement Maintenance Point Repair Program;
- B. Authorize the General Services Manager to award a Purchase Order to A&S Coldplaning, for mechanical broom sweeping and hauling of asphalt grindings, in an amount not to exceed \$69,285.96, for services previously provided for the Pilot Pavement Maintenance Point Repair Program; and
- C. Authorize the General Services Manager to award a Purchase Order to Continental Janitorial Service, for street sweeping and final clean-up, in an amount not to exceed \$13,163, for services previously provided for the Pilot Pavement Maintenance Point Repair Program.

### **DISCUSSION:**

#### Background

In July 2016, the Transportation Division initiated the Pilot Pavement Maintenance Point Repair Program (Program). The Program utilizes a trained crew of eight City Street Maintenance personnel and City-owned production paving equipment to perform larger paving jobs as a cost effective measure to increase Streets Capital Pavement Maintenance work. The work primarily involves removing and replacing asphalt and concrete street pavement and placing hot mix asphalt overlays in order to maintain the City's transportation infrastructure. The Program is developing the City crew's expertise in order to perform production paving work, such as drive lane asphalt overlays.

The initial Program work was performed by City Street Maintenance crews in conjunction with the services provided by the following specialty contractors:

- Central Coast Engineering (CCE), for hauling and delivery of hot-mix asphalt material;
- A&S Coldplaning (A&S), for mechanical broom sweeping and hauling of asphalt grindings; and
- Continental Janitorial Service (Continental), for street sweeping and final street clean-up services.

In an effort to quickly initiate the Program, staff mistakenly authorized work by CCE, A&S, and Continental prior to the issuance of the appropriate Purchase Orders by the General Services Manager. Because there was no contract in place when the work was performed, the City inadvertently failed to comply with its obligations under Labor Code Sections 1771 et seq., which require (in relevant part) that the City notify its contractors who are performing maintenance and repair work that they must pay their employees prevailing wage and register with the California Department of Industrial Relations (DIR). While the City is not liable to the DIR for failure to notify contractors of the prevailing wage requirement, Labor Code sections 1726 and 1781 do provide that when a public agency mistakenly fails to identify a project as being subject to prevailing wage requirements, the agency may be subject to an action by the contractor for increased costs, including increased labor costs, penalties assessed by the DIR (of up to \$200 per day for each worker paid less than the prevailing wage rate), attorney's fees, and costs.

In an effort to promptly resolve this issue, City staff contacted CCE, A&S, and Continental to notify them of the error and the requirement to pay prevailing wage. City staff verified that the contractors were registered with the DIR and requested copies of certified payrolls from each contractor. All contractors agreed to pay prevailing wage and staff confirmed payment through the submitted certified payrolls.

Additionally, because no purchase orders were issued for the work before it was performed, staff also inadvertently did not request payment bonds from CCE, A&S, and Continental. Contractors are required to obtain payment bonds for all maintenance and repair work that exceeds \$25,000. The bonds are generally issued by a surety company for the full contract amount and can be utilized by the City in the event that a contractor fails to pay its subcontractors. If payment bonds are not obtained, then a subcontractor may seek payment from the City in the event the contractor fails or refuses to pay. In the instant case, while payment bonds should have been required, the only contractor who utilized subcontractors was A&S, and staff has confirmed that A&S paid its subcontractors for the work performed for the City

CCE, A&S, and Continental complied with the City's request to pay prevailing wages. To date, the DIR has not indicated that it intends to issue any fines against CCE, A&S, and Continental. City staff wish to continue to use these contractors for future work and feel that while there is some exposure to the City for reimbursement of any possible fines issued by the DIR, the contractors should be paid for the work that they performed on behalf of the City.

Therefore, staff recommends that Council authorize the General Services Manager to issue “after-the-fact” Purchase Orders to CCE, A&S, and Continental for the services they provided for the pavement maintenance and repair work.

To avoid any similar mistakes in the future, the City’s Streets Division staff recently received training on the City’s purchasing policies and procedures.

Budget/Financial Information:

Sufficient appropriated funds are available in the Streets Fund to cover payment of the after-the-fact Purchase Orders.

**PREPARED BY:** James Dewey, Streets Operations and Infrastructure  
Manager/AU/sk

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator’s Office