



Midpeninsula Regional  
Open Space District

R-20-52  
Meeting 2011  
May 27, 2020

## AGENDA ITEM 4

### AGENDA ITEM

Subcontractor Substitution for the Ravenswood Bay Trail Connection Project

### GENERAL MANAGER'S RECOMMENDATIONS

Consent to a subcontractor substitution for the Ravenswood Bay Trail Connection Project.

### SUMMARY

The Ravenswood Bay Trail Connection Project (Project) will construct or improve 1.3 miles of bayfront trail, which will close a critical 0.6-mile gap in the San Francisco Bay Trail. The Board of Directors (Board) awarded a construction contract to Granite Rock Company (Graniterock) in July 2019 (R-19-107) and construction began in September 2019. Graniterock listed subcontractors in their bid, including Compass Engineering Contractors (Compass). Compass no longer offers one of the services (installing a specific type of slurry seal) for which they are contracted to perform. Graniterock requests to complete this scope of work through a different subcontractor, and Compass agrees to this substitution. State contracting laws require Board approval of this no-cost, no-time subcontractor substitution.

### DISCUSSION

The construction contract was bid publicly between May 15 and June 26, 2019, with three bids received. California Public Contract Code (PCC) §4104 requires that bidding prime contractors list in their bid all subcontractors performing work in excess of \$10,000 or more than 0.5% of the total bid price, whichever is greater. Graniterock, as the prime contractor, listed four subcontractors in their bid, including Compass, who would complete the asphalt slurry seal and striping work.

The contract was awarded to Graniterock on July 24, 2019 (R-19-107) and work began on September 03, 2019. Graniterock has made significant progress, completing nearly 85% of the work to date. The remaining tasks include asphalt paving, asphalt slurry seal, trail striping, signage, and security fencing. Graniterock recently notified staff that Compass no longer offers the type of slurry seal specified in the contract documents and therefore, formally requests to use Graham Contractors for the work in question (see Attachment 1). Compass would remain on the project to complete the trail striping work.

PCC §4107 stipulates that the prime contractor may not substitute a subcontractor listed in their original bid without the consent of the awarding authority. The law allows subcontractor substitution under certain circumstances in which the awarding authority may approve the substitution. Graniterock has cited as the reason for the subcontractor substitution PCC §4107(a)(3): *the listed subcontractor fails or refuses to perform his or her subcontract.*

This state law is intended to protect the listed subcontractor from bid shopping by the prime contractor. It affords them the opportunity to present their case to the awarding authority should they not agree with the substitution. Here, Compass voluntarily initiated this substitution request and has waived its due process right to formally object to the substitution by addressing the Board (see Attachment 2).

#### *Schedule Consideration*

The original construction completion date was May 28, 2020. The COVID-19 Regional Shelter-In-Place Order update on March 31, 2020 halted the Project construction until May 04, 2020. Construction has re-commenced, and the new target completion date is the end of June 2020. The substitution request has no bearing on the schedule – the delay has been due instead to the shelter-in-place orders.

#### **FISCAL IMPACT**

There is no fiscal impact associated with the recommendation, which is a no-cost, no-time extension consideration.

#### **BOARD COMMITTEE REVIEW**

No Committee review has occurred for the recommended contract amendment.

#### **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act.

#### **CEQA COMPLIANCE**

The Project was evaluated in a Mitigated Negative Declaration and Initial Study (IS/MND), adopted by the Board on November 16, 2016 (R-16-146) with an addendum adopted by the Board on November 13, 2019 (R-19-144).

#### **NEXT STEPS**

If approved, the General Manager will provide written consent of the subcontractor substitution, allowing Graniterock to release Compass from that portion of their contract. Graniterock will subsequently enter into contract with Graham Contractors to complete the work.

#### Attachment

1. Graniterock Substitution Request Letter dated May 11, 2020
2. Compass Request Letter dated April 21, 2020

#### Responsible Department Head:

Jason Lin, PE, Engineering and Construction Department Manager

#### Prepared by:

Scott Reeves, Senior Capital Project Manager, Engineering and Construction Department



05.11.2020

Midpeninsula Regional Open Space District  
330 Distel Circle  
Los Altos, CA 94022-1404

Attn: Scott Reeves at [sreeves@openspace.org](mailto:sreeves@openspace.org)  
Sean Smith at [ssmith@openspace.org](mailto:ssmith@openspace.org)

**RE: Ravenswood Bay Trail Connection Project**

**Subj: Substitution Request for Slurry Seal**

Mr. Reeves and Smith,  
Graniterock is requesting to substitute our subcontractor Compass Engineering Contractors with Graham Contractors for bid items 2.11 Slurry Seal and 3.10 Slurry Seal. This is a no-cost and no-time extension request. Graham Contractors qualifications are stated below:

CC Che Corlett <che@grahamcontractors.com>  
RE: #6753 Ravenswood - Graham Qualifications

o Kyle McLean  
cc Rogelio Queja; Anthony Lopez  
i Follow up. Start by Friday, May 8, 2020. Due by Friday, May 8, 2020.  
You replied to this message on 5/8/2020 9:46 AM.

**CAUTION: This message was sent by an external sender.**

Hi Kyle –

Thanks for thinking of us.

Our qualifications include that we have been in the slurry seal business for the last 44 years at the same location at 860 Lonus Street in San Jose. We are any active member of the International Slurry Seal Surfacing Association (ISSA), and we are a founding member and past president of the Western Regional Association for Pavement Preservation (WRAPP). I was on the CalTrans task force that wrote the original microsurfacing specifications. We have worked for every single Bay Area agency and sub-entity, and in almost every county in the State of California.

East Palo Alto doesn't put out too many jobs, but we have had the neighboring Palo Alto annual streets project probably 8 out of the last 10 times. If this is the Santa Clara Ravenswood project, then they might want to know that we do work on at least a few Santa Clara city streets every year for the last 44 years. In addition to public works, we are one of the few approved asphalt sealing contractors for Stanford, Pebble Beach, Lawrence Livermore Labs, Lockheed, and others. We've also sealed local landmarks like the old Candlestick Park, the new Levi Stadium, the Oakland Coliseum, the new Chase Arena, the Cow Palace, the Shark Tank, and others.

I can 100% Guarantee you that anyone working at your Ravenswood project has driven on our material at some point in their life.

Also – We did some slurry seal on a Ravenswood project on Alma Street (Menlo Park) last year for Travis Bond, and also for you guys. Is this the same owner?

Thanks,

**Che Corlett**  
Graham Contractors, Inc.  
[che@grahamcontractors.com](mailto:che@grahamcontractors.com)  
ph 408-293-9516

Feel free to call us with any questions you may have and thank you for your cooperation.

Email: [kmclean@graniterock.com](mailto:kmclean@graniterock.com)

Cell: (408) 858-1370

Thank you,



Kyle McLean  
Graniterock Structures Div. Project Manager



April 21, 2020

Mr. Kyle McLean  
Graniterock Construction  
5225 Hellyer Ave. Suite #220  
San Jose, Ca 95138

Re: Ravenswood Bay Trail Connection- East Palo Alto  
Midpeninsula Open Space District

Dear Mr. McLean:

On June 26<sup>th</sup> of 2019, we submitted quote 2019-0622r1 for the Ravenswood Bay Trail Connection project. Due to no fault of Graniterock, the proposed price for Bid Item #2.11 and #3.10 was presented for OverKote seal coat. We are informed that OverKote seal coat, upon further clarification, will not meet project specifications.

Because of this material discrepancy and due to the fact that Compass Engineering does not provide the required application, we have no objection to Graniterock substituting us for another subcontractor contingent on no cost impact other than the deletion of the bid item.

Compass Engineering will complete the striping work as quoted.

Thanks,

Michael Willing  
Compass Engineering Inc.  
25056 Viking Street, Hayward, Ca 94545  
(510)264-0225 office  
(510) 264-0235 fax  
(510) 300-4667 direct