

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 APR 30 PM 8: 03

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Public Works Agency
DATE: May 12, 2009

RE: **Resolution Authorizing The City Administrator To Waive Advertising And Bidding For Trucking Services For The Transportation Of Contaminated Soil From The Coliseum BART Station Area Underground Utility District No. 235 Project, Located on San Leandro Street, Between 66th Avenue And 73rd Avenue, To State-Certified Dump Site Facilities, And Awarding A Contract To Summerhill Electric In An Amount Not-To-Exceed One Hundred Twenty Thousand Dollars (\$120,000.00) For Said Trucking Services In Accord With Plans And Specifications For City Project No. C332110 And Contractor's Bid Dated April 2, 2009**

SUMMARY

The Coliseum BART Station Area Underground Utility District No. 235, is located on San Leandro Street, between 66th Avenue and 73rd Avenue. The project was planned by ORA as part of its plans for the Coliseum Area redevelopment and asked Public Works to underground the overhead utilities. Public Works contracted with PG&E to underground the overhead utilities and paid the utility company up front for the cost of the project.

PG&E encountered contaminated soil in the project area and requested the City to take over the removal and trucking of the contaminated soil. The City has tested the soil and plans disposal of the soils through Summerhill Electric to the proper dump sites. This report is to seek Council authorization for the City Administrator to waive formal bidding for trucking services to remove contaminated soil, based on urgent project need, and instead approve a change order for up to \$120,000.00 for trucking services to remove contaminated soil to Summerhill Electric, which would exceed 20% of their contract with the City for panel conversion of \$82,306.00.

FISCAL IMPACT

Summerhill Electric currently has a contract with the City for the panel conversion in the amount of \$82,306.00. The City asked Summerhill Electric to provide trucking services to transport the contaminated soil to the appropriate dump sites. Summerhill Electric obtained quote from Waste Management. The Public Works Agency has evaluated the soil removal and trucking as costing up to \$120,000.00. The exact cost would depend on the amount of Class I and Class II contaminated soils excavated in the project.

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May 12, 2009

The contingency of 10% for the project budget did not include an allowance for contaminated soil at this large scale. Nevertheless, the contingency would be used to cover this additional cost. Details of the quote for the soil disposal are shown in *Attachment A*.

BACKGROUND

The project location is on San Leandro Street in Oakland and includes the area in front of the Coliseum BART Station. It is a California Public Utilities Commission Rule 20B underground utility project, created by Council Resolution No. 81002 C.M.S. on December 18, 2007. The Redevelopment Agency initiated this project as part of their overall plan for the Coliseum Area development and requested the Public Works Agency to underground the overhead wiring and facilities of PG&E, AT&T, Comcast and the City. This project adds ornamental pedestrian streetlights that harmonize with the street lighting schemes in the neighboring major thoroughfares. The aesthetically pleasing ornamental pedestrian street lighting would increase the level of safety lighting on the sidewalk. The project is located in Council District 7.

The Public Works Agency had contracted with PG&E, as lead on the undergrounding, and paid up front the entire cost of \$2,613,200.00 to PG&E from funds provided by the Redevelopment Agency. The project budget was \$4.024 million and included funds for contract panel conversion, City labor, City procurement of streetlight material and a 10% contingency.

KEY ISSUES AND IMPACTS

Construction work is done by PG&E, who has subcontracted the substructure work to ARB, Inc. The field construction work began in December 2008, and will be completed by December 2009. The project schedule is shown on *Attachment B*.

The current key issue is as follows:

Contaminated Soils. As ARB, Inc. excavated the main trench route, they began to encounter contaminated soil. The City had already started testing soil for the project, and requested its consultant to expedite the test results. The test results indicated that the soil was contaminated, and further analysis and tests categorized them as Class I and Class II soils. An estimated quantity of as much as 3,000 tons of contaminated soil in all three classifications viz. Class I, Class II and Class III is anticipated on the project. The exact quantity of each classification would depend on actual excavation. Further, the contaminated soil occurs over a large area in the main trench route as well as in the 71st Avenue area. Disposal options include trucking Class I contaminated soil to the Kettleman Hills Facility; and Class II contaminated soil to Waste Management's Altamont Landfill.

The discovery of the contaminated soil in this large scale was unexpected. However, it is of an urgent nature as ARB, Inc. needs to continue with its main line trenching and installation of the substructure, so as not to delay PG&E, AT&T, Comcast and the City from installing their collective new underground wires and facilities in order to remove the overhead system.

EVALUATION OF PAST PERFORMANCE

The City has not evaluated PG&E's or ARB, Inc.'s performance on a previous City project as none was completed in recent times after evaluation of performance became an option.

SUSTAINABLE OPPORTUNITIES

Economic: All public works contracts require prevailing rate of wages. Prevailing wages offer a livable wage for workers and contribute to an improved quality of life.

Environmental: Materials will be sent to recycling facilities to the extent possible. In addition, the improved lighting in sidewalk surface will make walking, parking and bicycling easier and thus encourage residents to walk and use bicycles more and drive less, thereby helping to reduce air pollution and traffic congestion.

Social Equity: Pedestrian streetlights enhance the City's infrastructure, beautify public access and assure the public a sense of security. The pedestrian streetlights ensure that street rehabilitation funds are spent in a manner that is equitable throughout the city.

DISABILITY AND SENIOR CITIZEN ACCESS

Undergrounding of the heavily congested overhead pole lines will make this portion of San Leandro Street in front of the Coliseum BART Station area more easily accessible and safe to individuals who visit the Coliseum; as well as travelers on BART, AmTrak and AC Transit. Pedestrian streetlights illuminate the sidewalk better and provide brighter lighting of the pavements, tree wells, fire hydrants, traffic signal poles and street furniture. The disabled, senior citizens and children can better see the sidewalk pavement and would feel more secure in their activities in this segment of San Leandro Street.

RECOMMENDATION AND RATIONALE

Staff recommends the award of a change order to Summerhill Electric's contract in the amount of up to \$120,000.00 for the Coliseum BART Station Area Underground Utility Project (Project No. C332110).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



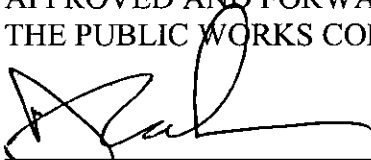
Raul Godinez II, Director
Public Works Agency

Reviewed by:
Bruce Saunders, Assistant Director
Department of Infrastructure and Operations

Prepared by:
Paul Chan, P.E., Acting Electrical Service Manager

Attachment A: Summerhill Electric quote, dated April 2, 2009 include Bond, dated April 7, 2009
Attachment B: Project Schedule, dated April 13, 2009

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator

Item: _____
Public Works Committee
May 12, 2009

Chan, Paul

From: Louis Summerhill [summerhillelectricinc@yahoo.com]
Sent: Thursday, April 02, 2009 2:06 PM
To: Chan, Paul
Subject: Fw: Summerhill Electric - City of Oakland Project Quote
Attachments: summerhill - san leandro St - Oakland 3-25-09.doc

ATTACHMENT "A"

Hi Paul,

Louis asked me to forward this quote to you from Waste Management.
Please figure out the cost, and add a cost of 10% in for Summerhill Electric.

Thanks,
Teresa Summerhill

----- Forwarded Message -----

From: "Thompson, Bob" <bthomps2@wm.com>
To: Louis Summerhill (E-mail) <summerhillelectricinc@yahoo.com>
Cc: "Vierra, Tracy" <TVierra@wm.com>; "Friddle, Peggy" <pfriddle@wm.com>; "Hanes, Ed" <ehanes@wm.com>
Sent: Thursday, March 26, 2009 6:44:47 AM
Subject: Summerhill Electric - City of Oakland Project Quote

Hello Louis,

Please see the attached quote for this project. Please call me on my cell phone if you have questions.

<<summerhill - san leandro St - Oakland 3-25-09.doc>>

Thanks

VISIT US AT OUR NEW WEBSITE:
www.wmdisposal.com

Waste Management's landfills provide over 17,000 acres of protected land for wildlife habitats and 15 are certified by the Wildlife Habitat Council.

*Bob Thompson
Account Manager
Industrial Landfill Sales
Waste Management*

*Office Phone: (916) 933-5845
Office Fax: (916) 933-5837
Cell Phone (925) 575-0886*



WASTE MANAGEMENT

Louis Summerhill
Summerhill Electric

March 25, 2009

Via E-Mail:

Subject: Contaminated Soil – City of Oakland – San Leandro St. - Oakland, CA

Dear Louis:

Waste Management is pleased to quote the following rate for the aforementioned project. These rates are based upon the estimated volumes of 1600 tons of Class I and/or Class II soil. The transportation rates include prevailing wage. This project can be expedited with a 24-hour turn around \$500 Rush profiling fee or a 48-hour \$250 turn around. The profiling fee will apply at each facility.

ALTAMONT LANDFILL – LIVERMORE, CA

Class II Daily Cover Soil (Gas/VOCs < 50 PPM, minimal small Debris) \$16.00/Ton
Must be dry, spread-able to qualify, minimal small debris < 3" minus OK

OR

Class II Disposal (Does not qualify as Daily Cover) \$45.00/Ton

Transportation to Altamont Landfill \$16.50/Ton
Trucks must be dispatched (requested) so that each truck makes 3 trips to the Landfill per day

Potential Transportation Surcharges:

There is a 23-ton minimum on all loads billed by the ton. The rate includes a 0.5-hour for loading time. Demurrage will be charged thereafter at \$90/Hour. Dispatched trucks that do not receive a load will be billed a 4-hour minimum \$360.

At Altamont, a variable 2-9% fuel surcharge (Currently at 3.00%) and an \$8.00/Load environmental fee will apply to both the disposal and transportation. An \$85 waste profile fee will apply as well. (Does not apply if rush approval fees are paid)

Kettleman Hills Facility:

Class I CA Regulated Non-RCRA Soil – Direct Landfill	\$30.00/Ton
Kings County Tax (10%)	\$3.00/Ton
Environmental Fee (10%)	\$3.00/Ton
CA BOE Fee (2009 Cleanup rate only)	\$5.72/Ton*

RCRA Soil for Stabilization – (Lead Only)	\$110.00/Ton
Kings County Tax (10% of Disposal)	\$ 11.00/Ton
Environmental Fee (10%)	\$ 11.00/Ton
B.O.E. Tax (2009 Cleanup Rate)	\$5.72/ton*

* If you manifest or profile with a 611 code the 2009 clean up rate will apply. If you do not use the 611 code the process rate will apply. Or a letter must be submitted to Chemical Waste Management prior to shipment in regards to the project qualifying for the State Board of Equalization tax “clean up” rate. Many state and local government entities are exempt from the CA BOE fee. It is suggested that you contact the entity to make a final determination. This CA BOE fee will be waived if a letter is received from entity regarding their exemption from this fee. Otherwise, the fee will apply.

The stabilization rate is contingent upon development of a recipe that requires a normal amount of reagent. Stabilization projects require additional lead-time. You may be required to send a sample with whatever analytical is required with the profile so that a recipe can be developed to stabilize the waste. This normally takes an additional three days. Once the recipe is developed we require three loads to determine if we have the correct recipe, which can take an additional one to two days.

Transportation to Kettleman Hills Facility End Dump – Prevailing Wage \$44.00/Ton

Potential Transportation Surcharges:

There is a 23-ton minimum on all load billed by the ton. The rate includes an hour for loading time. Demurrage will be charged thereafter at \$90/Hour. Dispatched trucks that do not receive a load will be billed a 4-hour minimum \$360.

Loader Usage

In the event this is requested, Waste Management could provide a Loader and loader operator

\$100/hour Mobilization (Expect 2.5-3 hours)

\$190/Hour for loading and operator

\$100/hour De-Mobilization (Expect 2.5-3 hours)

These rates are contingent on the waste being >50% solid, < 500 ppm VOC's for stabilization projects, must not contain free liquids, and be approved through Waste Management's Waste Approval Process. The disposal rates are based upon payment within the terms of the service agreement are valid for sixty days unless extended in writing by Waste Management. Thank you for the opportunity to provide service. If you have any questions, please call me at (925) 575-0886.

Sincerely,

Bob Thompson
Account Manager



INSCO INSURANCE SERVICES, INC.
Underwriting Manager for:
Developers Surety and Indemnity Company
Indemnity Company of California
17780 Fitch, Suite 200 • Irvine, California 92614 • (949) 263-3300

BOND RIDER

ATTACHED TO AND FORMING A PART OF:

Bond No.: 722647P

Principal: Summerhill Electric, Inc.

Obligee: City of Oakland

Surety: Developers Surety and Indemnity Company

Effective July 22, 20 09, it is agreed that:

Increase bond penalty from \$82,306.00 to \$202,306.00

Increase bond premium from \$2469.00 to \$6069.00

Premium is based on the final contract amount

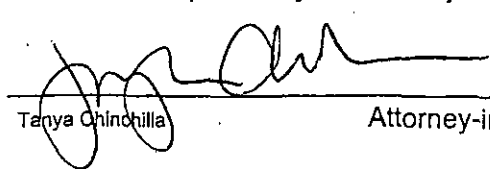
Nothing herein contained shall be held to vary, waive, alter, or extend any of the terms, conditions, agreements or warranties of the above mentioned bond, other than stated as above. Provided, however, that the liability of the company under the attached bond as changed by this order shall not be cumulative.

Signed this 7th day of April, 20 09

Principal: Sumerhill Electric, Inc.

Surety: Developers Surety and Indemnity Company


By: _____


Tanya Chinchilla Attorney-in-Fact

PRODUCER: 556183-Kosich Insurance Agency Inc., 3435 Mt Diablo Blvd Ste 300, Lafayette, CA 94549
(925) 284-3911

ID	Task Name	Duration	Start	Finish	Predecessor
11	Delay In PG&E cost-not-to-exceed estimate	60 days	Tue 10/5/04	Mon 12/27/04	9
12	Delay in CEDA determination of the extent of project	60 days	Tue 12/28/04	Mon 3/21/05	11
13	Delay in CEDA Funding for project	60 days	Tue 3/22/05	Mon 6/13/05	12
14	City bid out Coliseum Streetscape Project	0 days	Mon 6/13/05	Mon 6/13/05	13
15	PWA Electrical procure streetlights and Tesco Panels	90 days	Tue 6/14/05	Mon 10/17/05	14
16	Meet with Councilmember, CEDA and PG&E on funding, timeline, and cost	16 days	Tue 10/18/05	Tue 11/8/05	15
17	Meet with CEDA and PG&E on funding, timeline, and cost	1 day	Wed 11/9/05	Wed 11/9/05	16
18	CEDA transfer funds for streetlight and Tesco Panels	20 days	Thu 11/10/05	Wed 12/7/05	17
19	PG&E provide composite plans, form B	325 days	Wed 11/9/05	Tue 2/6/07	16
20	Final review and comments of PG&E composite plans, form B	70 days	Wed 2/7/07	Tue 5/15/07	19
21	Staff prepare agenda report and council resolution	9 days	Wed 5/16/07	Mon 5/28/07	20
22	Send agenda report & council resolution to PWA Director	10 days	Tue 5/29/07	Mon 6/11/07	21
23	Review by Director, Attorney, Auditor, C Administrator, Budget, Etc.	10 days	Tue 6/12/07	Mon 6/25/07	22
24	PG&E revised estimate. Pull from PWA Committee. Negotiate with PG&E	45 days	Tue 6/26/07	Mon 8/27/07	23
25	City Comments and PG&E's Response	13 days	Tue 8/28/07	Thu 9/13/07	23,24
26					
27	Staff prepare agenda report and council resolution	29 days	Fri 9/14/07	Wed 10/24/07	25
28	Send agenda report & council resolution to Assist Director	5 days	Thu 10/25/07	Wed 10/31/07	27
29	Review by Attorney, Auditor, C Administrator, Budget, Etc.	5 days	Thu 11/1/07	Wed 11/7/07	28
30	Send agenda report & council resolution to Director	7 days	Thu 11/8/07	Fri 11/16/07	29
31	Inform property owners of underground project	1 day	Mon 11/19/07	Mon 11/19/07	30
32	Send out Public Hearing to property owners	0 days	Mon 11/19/07	Mon 11/19/07	31
33	Rules Committee: set public hearing and establishing	1 day	Tue 11/20/07	Tue 11/20/07	32
34	PW Committee	15 days	Wed 11/21/07	Tue 12/11/07	33
35	Council: public hearing and establishing underground district	5 days	Wed 12/12/07	Tue 12/18/07	34
36	Cut Check for PG&E	20 days	Wed 12/19/07	Tue 1/15/08	35
37	Contract with PG&E	30 days	Wed 1/16/08	Tue 2/26/08	36
38	Bid out and Award Panel Conversion	161 days	Wed 3/5/08	Wed 10/15/08	37
39	Pre-construction meeting with business community impacted by the project	5 days	Wed 2/27/08	Tue 3/4/08	37
40	PG&E Install Substructure	13 days	Thu 10/16/08	Mon 11/3/08	38
41	Award Change Order Soil Removal and Trucking	30 days	Tue 11/4/08	Fri 12/12/08	40
42	Panel modifications	60 days	Mon 12/15/08	Fri 3/6/09	41
43	CEDA and PG&E Inspection of panel modifications	45 days	Mon 3/9/09	Fri 5/8/09	42
44	PG&E, AT&T and Comcast install facilities	75 days	Mon 5/11/09	Fri 8/21/09	43
45	PWA Electrical Install remaining streetlights	30 days	Mon 8/24/09	Fri 10/2/09	44
46	PG&E Cutover and Panel Conversion	45 days	Mon 5/11/09	Fri 7/10/09	43
47	PG&E Removes Poles	27 days	Mon 10/5/09	Tue 11/10/09	44,46,45
48	Council Mandated Pole Removal November 15, 2008	0 days	Tue 11/10/09	Tue 11/10/09	47
49	As-built and closeup	30 days	Wed 11/11/09	Tue 12/22/09	48
50	Construction complete	0 days	Tue 12/22/09	Tue 12/22/09	49

Project Title: Coliseum BART Station Area Underground Utility District No. 235 Project No. C332110 Project Schedule Date: 04/13/2009	Task		Summary
	Progress		Rolled U
	Milestone		Rolled U

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 APR 30 PM 8:03

Approved as to Form and Legality
DRAFT

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO WAIVE ADVERTISING AND BIDDING FOR TRUCKING SERVICES FOR THE TRANSPORTATION OF CONTAMINATED SOIL FROM THE COLISEUM BART STATION AREA UNDERGROUND UTILITY DISTRICT NO. 235 PROJECT, LOCATED ON SAN LEANDRO STREET, BETWEEN 66TH AVENUE AND 73RD AVENUE, TO STATE-CERTIFIED DUMP SITE FACILITIES, AND AWARDED A CONTRACT TO SUMMERHILL ELECTRIC IN AN AMOUNT NOT-TO-EXCEED ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00) FOR SAID TRUCKING SERVICES IN ACCORD WITH PLANS AND SPECIFICATIONS FOR CITY PROJECT NO. C332110 AND CONTRACTOR'S BID DATED APRIL 2, 2009

WHEREAS, the Coliseum BART Station Area Underground Utility District No. 235, located on San Leandro Street, between 66th Avenue and 73rd Avenue is a California Public Utilities Commission Rule 20B underground utility project, created by Council Resolution 81002 on December 18, 2007; and

WHEREAS, the Redevelopment Agency initiated this project as part of their overall plan for the Coliseum Area development and requested the Public Works Agency to execute the work of removing Pacific Gas & Electric (PG&E), AT&T, Comcast and City overhead wiring and facilities and replace them with underground facilities; and

WHEREAS, PG&E is handling the overall undergrounding project and the City has paid the City's entire cost of streetlight and other facility undergrounding not covered by Rule 20A funds, \$2,613,200.00, to PG&E from funds provided by the Redevelopment Agency; and

WHEREAS, after authorization to proceed, PG&E began to implement the project and encountered contaminated soil in the City's right of way in the project area and the City's environmental tests identified approximately 3000 tons of contaminated soil in all three classifications, viz. Class I, Class II, and Class III; and

WHEREAS, PG&E notified staff that the City must manage and dispose of the contaminated soil because PG&E only removes and disposes of Class III clean soil; and

WHEREAS, the City asked the City project contractor, Summerhill Electric, for price quotes to undertake the additional task of removal and trucking of Class I and Class II contaminated soil to state-certified dump sites; and

WHEREAS, Summerhill Electric submitted unit price quotes by which Public Works estimated that the work would cost up to \$120,000.00; and

WHEREAS, there is insufficient time to conduct an advertised bid, which would require four to five months, because it is imperative that the contaminated soil be removed from the City site on which it currently sits as soon as possible to avoid contamination of the site and the surrounding area; and

WHEREAS, the services provided under this contract are of a technical and temporary nature, are in the public interest because of economy or better performance and shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That pursuant to Oakland Municipal Code Section 2.04.050.I.5, the City Council finds and determines that it is in the best interests of the City to waive advertising and bidding for soil removal and transport of contaminated soil from the Coliseum BART Station Area Underground Utility District No. 235 project area and so waives the requirements; and be it

FURTHER RESOLVED: That a contract for the removal and transport of contaminated soil from the Coliseum BART Station Area Underground Utility District No. 235 project area to state-certified dump facilities is awarded to Summerhill Electric, in accord with plans and specifications for City Project No. C332110 and the contractor's bid dated April 2, 2009, in an amount up to one hundred twenty thousand dollars (\$120,000.00); and be it

FURTHER RESOLVED: That plans and specifications prepared by City Engineers of the Public Works Agency for City Project No. C332110 are hereby approved and that the amount of the bond for faithful performance, \$120,000.00 (100% of contract), and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for amount due under the Unemployment Insurance Act, \$120,000.00 (100% of contract), with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to post conspicuously forthwith notice of the above award on the official bulletin board in the Office of the City Clerk and that the City Attorney shall review and approve the contract for form and legality and a copy shall be placed on file in the City Clerk's Office.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California