

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION No. _____ C2004-087 -7 PM 3:57

INTRODUCED BY COUNCILMEMBER _____

2/3 vote required



RESOLUTION AUTHORIZING AWARD OF A CONSTRUCTION CONTRACT TO THE RESPONSIBLE LOW BIDDER, UNDERGROUND CONSTRUCTION COMPANY, INC., IN THE AMOUNT NOT TO EXCEED \$9,282,964.45 FOR CONSTRUCTION OF UNDERGROUND UTILITY DISTRICT NO. 233, ON MACARTHUR BOULEVARD (FROM 73RD AVENUE TO THE SAN LEANDRO CITY LINE) USING \$1,673,022 IN CITY OF OAKLAND FUNDS OUT OF A BUDGET OF \$2,000,000 FOR THE PROJECT AND PAYMENTS FROM PG&E, SBC AND COMCAST TOTALING \$7,609,942, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, the Underground Utility District No. 233 (from San Leandro City Line to 73rd Avenue) is an underground project which is consistent with the City Council Budget Priorities to Maintain and Enhance Oakland’s Physical Assets by improving the physical appearance, livability and integrity of this neighborhood, and supports the City Council Budget Priority to Improve Oakland’s Neighborhood by enhancing pedestrian and public access areas, and the general aesthetics of the neighborhood commercial district; and

WHEREAS, the Underground Utility District No. 233 (from San Leandro City Line to 73rd Avenue) replaces the aerial wires and cables with underground facilities, replaces the existing streetlights with new lights, and install new pedestrian level lights with holiday circuits. The project will render the project area safer from overhead electrical and communication facilities and will beautify the neighborhood. These elements provide sustainable opportunities to the local economy, environment and social equity for the MacArthur Boulevard neighborhood. The project will also install a number of ADA ramps that meet the federal Americans with Disabilities Act requirements; and

WHEREAS, on May 4, 2004, Notices to Bidders were sent to 535 contractors, with License “A” or “C10”, per PWA database and Contract Compliance database and the Outreach and Builder Exchange. On May 5, 2004, the project was advertised in the Oakland Tribune to solicit bids; and

WHEREAS, on June 21, 2004, the City Clerk received eight bids and determined that Underground Construction Company is the responsible low bidder with the amount of \$9,282,964.45. Underground Construction Co. has 20.25% SLBE/LBE participation in its bid, which exceeds the 20% SLBE/LBE goal; and

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WHEREAS, the construction cost of \$9,282,964.45 will be paid by the parties to the joint-trench in the following manner: City of Oakland: \$1,673,022.00; PG&E: \$4,330,430.00; SBC: \$1,908,754.00; Comcast: \$1,370,758.45; and

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WHEREAS, there are sufficient funds available in the City to cover its portion of the construction contract including 1.1% contingency and the City will coordinate the project. The budget for the City portion of the construction contract is \$2,000,000. Out of which the contract City portion is \$1,673,022; City Forces portion is \$251,692; Public Arts (1.5%) \$25,095; and Contract Compliance (3.0%) \$50,191; and

WHEREAS, PG&E has agreed to enter into a separate agreement with the City for its share of the construction costs, \$4,330,430, and will make progress payments directly to the contractor; and

WHEREAS, SBC has agreed to enter into the prime construction agreement for its share of the construction costs, \$1,908,754, and will make progress payments directly to the contractor; and

WHEREAS, Comcast has agreed to enter into the prime construction agreement for its share of the construction costs, \$1,370,758, and will deposit funds with City or pay on demand contractor's progress payments; and

WHEREAS, the Contractor will be required to limit the City's liability to the cost of the City's work, to release and hold harmless the City from any and all claims related to the utilities' work, and to name City, PG&E, SBC and Comcast on insurance and bonds as additional insureds and parties; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, and the City Council finds and determines that the performance of this contract is in the public interest because of economy and that services under this contract will be temporary; and

WHEREAS, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now, therefore, be it

RESOLVED: That the City Administrator is authorized to award a contract for the Underground Utility District No. 233 (from San Leandro City Line to 73rd Avenue) to the responsible low bidder, in accordance with the terms of its bid therefore, in an amount not-to-exceed Nine Million Two Hundred and Eighty Two Thousand Nine Hundred Sixty-Four Dollars and Forty Five Cents (\$9,282,964.45), subject to the following conditions:

- 1) ~~PG&E, SBC and Comcast~~ agrees to indemnify, release and hold harmless the City from any and all claims related to designs and specifications prepared by the City for utilities and approved by utilities; and
- 2) PG&E, SBC and Comcast agree to enter into the above construction agreement or agree to enter into a separate binding agreement with the City in which they promise to pay for any and all claims and costs related to their portion of the work, even if such claims or costs exceed the utility's contribution stated in the contract. ~~The utilities~~ Comcast further agrees to indemnify, release and hold harmless the City from

any and all construction claims for payment, damages or injuries related to utility work; and

- 3) Contractor agrees to limit City's liability to the cost of the City's work, agrees to release and hold harmless the City from any and all claims for payment, damages or injuries related to the utility work, and agrees to name the City, PG&E, SBC and Comcast on insurance and bonds as additional insureds and parties; and be it

FURTHER RESOLVED: That the plans and specifications prepared by the Director of Public Works for this project are hereby approved; and be it

FURTHER RESOLVED: That the amount of the bond for faithful performance of one hundred percent (100%) of the bid amount, and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act, equal to the bid amount (100%), with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the Contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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