TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

PARTMENT: UTILITIES

DATE: MARCH 5, 2007

SUBJECT: APPROVAL OF A UTILITIES FUND CONTRACT WITH WEST VALLEY CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF $2,462,081 FOR INSTALLATION OF THE UTILITY TRENCH AND SUBSTRUCTURE, AND APPROVAL OF THE SPECIFIC SUPPLEMENTARY AGREEMENT FOR JOINT PARTICIPATION INSTALLATION OF UNDERGROUND FACILITIES SYSTEM BETWEEN CITY OF PALO ALTO, AT&T CALIFORNIA AND COMCAST CORPORATION OF CALIFORNIA IX, INC. FOR UNDERGROUND UTILITY DISTRICT NO. 41 CAPITAL IMPROVEMENT PROGRAM PROJECT - EL 03001

RECOMMENDATION

Staff recommends that Council:

1. Approve and authorize the Mayor to execute the attached contract with West Valley Construction Company Inc. in the amount of $2,462,081 for the installation of the utility trench and substructure system for the Underground Utility District No. 41 Project.

2. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with West Valley Construction Company Inc. for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed $246,000 or approximately 10% of the contract value.

3. Approve and authorize the City Manager to execute the attached Specific Supplementary Agreement for Joint Participation Installation of Underground Facilities System between the City of Palo Alto, AT&T California and Comcast Corporation of California IX, Inc.

BACKGROUND

At its meeting on October 24, 2005, the City Council adopted Ordinance No. 4883 creating Underground Utility District No. 41. This project involves constructing an underground electric distribution system in an area which meets both City and AT&T guidelines for undergrounding.
The new underground system is to be installed in the public right-of-way and constructed in four phases:

Phase I - Substructure installation by the contractor, consisting of trenching and placement of conduits, vaults, boxes and pads in the public right-of-way and in public utility easements.

Phase II - Installation, testing and energizing of new underground distribution cables, switches and transformers.

Phase III - Customer service conversions – all affected property owners will be required to connect to the new underground system.

Phase IV - Removal of all overhead lines and poles.

The attached contract is for Phase I of the project. This work needs to be performed by a contractor because the City does not have the staff and the equipment to install the substructure required for this project.

**DISCUSSION**

Summary of Bid Process

<table>
<thead>
<tr>
<th>Bid Name</th>
<th>Underground District No.41</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>3 to 4 months – Phase I</td>
</tr>
<tr>
<td>Number of Bids Mailed to Contractors</td>
<td>7</td>
</tr>
<tr>
<td>Number of Bids Mailed to Builder’s Exchanges</td>
<td>5</td>
</tr>
<tr>
<td>Total Days to Respond to Bid</td>
<td>21</td>
</tr>
<tr>
<td>Pre-Bid Meeting</td>
<td>Yes</td>
</tr>
<tr>
<td>Number of Company Attendees at Pre-Bid Meeting</td>
<td>5</td>
</tr>
<tr>
<td>Number of Bids Received:</td>
<td>4*</td>
</tr>
<tr>
<td>Bid Price Range</td>
<td>From a low of $2,462,081 to a high of $2,945,010</td>
</tr>
</tbody>
</table>

*Bid summary provided in Attachment B.

Staff has reviewed all bids submitted and recommends that the bid of $2,462,081 submitted by West Valley Construction Company Inc. be accepted and that West Valley Construction Company Inc. be declared the lowest responsible bidder. The bid is twenty percent above the engineer's estimate of $2,050,000 which was based on construction costs for similar work in
previous projects. The reasons provided by contractors for the cost increase were significant increases in material and labor costs and work load issues. The change order amount of $246,000, which equals 10% percent of the total contract, is requested for related unforeseen work, which may develop during the project.

The bid price exceeds the Engineer’s estimate, so as a cost minimization measure, staff intends where possible to utilize the directional boring method in lieu of open trenching, which should reduce the overall project cost. However, if this cost saving approach does not achieve the expected level of savings, staff may need to return to Council with a BAO request to increase the total budget for this undergrounding project prior to completing Phase II and Phase IV of this project.

Staff confirmed with the Contractor's State License Board that the selected contractor has an active license on file. Staff checked references supplied by the contractor for previous work performed and found no significant complaints.

Joint Agreement
To take advantage of the economics of joint use of trenches, the City, AT&T California and Comcast Corporation executed an Amended Master Agreement in 1990 (originally a master agreement between City and Pacific Bell executed in 1975 and amended in 1986) for participation in joint underground construction projects. This agreement is primarily a cost sharing agreement for undergrounding overhead lines.

The Amended Master Agreement, now over seventeen years old, limits the expenditures to $25,000 per project, an amount that was a reasonable ceiling twenty years ago. Whenever the amount involved in a project exceeds the $25,000 limit, then a Specific Supplementary Agreement is required as in this case. The Supplementary Agreement references the Amended Master Agreement for general terms and conditions and requires, when the work is contracted, the use of the exact unit prices quoted by the contractor to determine the costs shared between the utilities. Accordingly, the City, who will administer the contract for this project, will invoice AT&T California and Comcast Corporation on the basis of prices quoted and the terms agreed upon in Exhibit "A" of the Specific Supplementary Agreement. Due to the dated nature of the Amended Master Agreement, a new Master Agreement is being negotiated between City, AT&T and Comcast. This new Master Agreement, once approved, will not require a supplementary agreement. Staff anticipates that the new Master Agreement will be submitted to Council for approval in June 2007. In the interim, staff recommends approval of the Specific Supplementary Agreement for the Underground Utility District # 41.

Project Coordination
The work was coordinated with the Public Works Department at the monthly Utilities/Public Works department coordination meetings by use of the GIS project coordination program. Since the start of this project staff has been in frequent communication with the property owners directly affected by this project via letters and neighborhood meetings. Additional details of
Phase I construction performed under this contract will be communicated to the neighborhoods and other affected project stakeholders in advance of the construction, and every effort will be made to minimize inconvenience to customers.

**RESOURCE IMPACT**
Funds for this project are included in the FY 2005-2006 Electric Capital Improvement Program Budget EL-03001. Based on the low bid, the estimated costs for the City, AT&T and Comcast are $1,451,256, $462,023 and $548,802 respectively.

**POLICY IMPLICATIONS**
This project supports CPAU Key Strategy number 7 – Implement programs that improve the quality of the environment and Supporting Objective number 2 – Invest in utility infrastructure to deliver reliable service.

**ENVIRONMENTAL REVIEW**
This project is categorically exempt from the California Environmental Quality Act (CEQA) under Article 19. Section 15302(d).

**ATTACHMENTS**

A: Contract
B: Bid Summary
C: Certificate of Non-Discrimination
D: Specific Agreement for Joint Participation Installation of Underground Facilities System
E: Project Boundary Map

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