



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

December 16, 2013

The Honorable City Council
Palo Alto, California

Finance Committee Recommendation to Accept the Audit of Contract Oversight: Trenching and the Installation of the Electric Substructure

The Office of the City Auditor recommends acceptance of the Audit of Contract Oversight: Trenching and the Installation of the Electric Substructure. At its meeting on November 5, 2013, the Finance Committee approved and unanimously recommended the City Council accept the report. The Finance Committee minutes are included in this packet.

ATTACHMENTS:

- Attachment A: Audit of Contract Oversight: Trenching and the Installation of the Electric Substructure (PDF)
- Attachment B: Finance Committee Meeting Minutes Excerpt (November 5, 2013) (PDF)

Department Head: Houman Boussina, Acting City Auditor



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

November 5, 2013

**The Honorable City Council
Palo Alto, California**

Audit of Contract Oversight: Trenching and the Installation of Electric Substructure

In accordance with the Fiscal Year 2014 Annual Audit Work Plan, the Office of the City Auditor has completed the Contract Oversight Audit: Trenching and Electric Substructure. The audit contains four findings with a total of six recommendations. The Office of the City Auditor recommends the Finance Committee review and recommend to the City Council acceptance of the Contract Oversight Audit: Trenching and Electric Substructure.

We thank the staff of the Utilities Department and the Administrative Services Department for their time, information, and cooperation during the audit process. We also acknowledge and thank former City Auditor Jim Pelletier for his role during the audit.

ATTACHMENTS:

- Attachment A: Contract Oversight Audit: Trenching and the Installation of Electric Substructure (PDF)

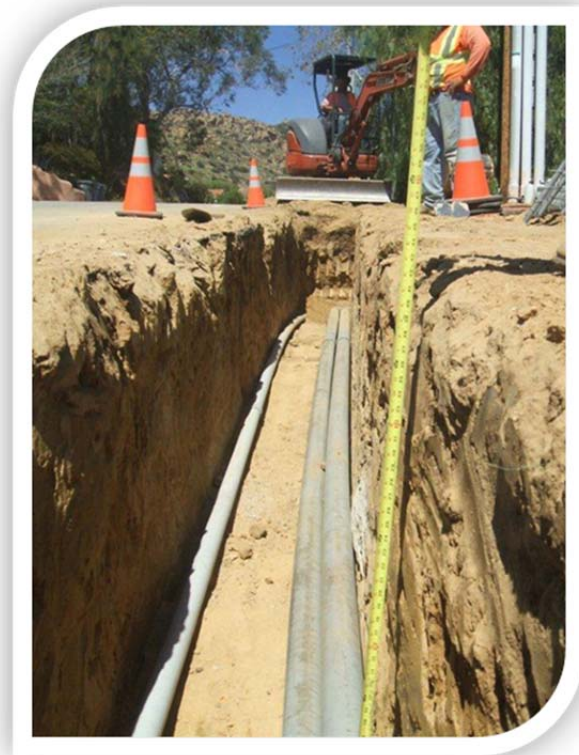
Department Head: Houman Boussina, Acting City Auditor



CITY OF
**PALO
ALTO**

CONTRACT OVERSIGHT AUDIT: TRENCHING AND THE INSTALLATION OF ELECTRIC SUBSTRUCTURE

October 2013



Office of the City Auditor

Houman Boussina, Acting City Auditor
Lisa Wehara, Performance Auditor



Office of the City Auditor

EXECUTIVE SUMMARY – CONTRACT OVERSIGHT AUDIT: Trenching and Electric Substructure



Audit Objective: To determine if the Utilities Department effectively managed its \$1.9 million contract with Casey Construction, Inc. for trenching services and the installation of electric substructure, in accordance with contract terms, the City of Palo Alto Municipal Code, and relevant policies and procedures.

SUMMARY OF RESULTS

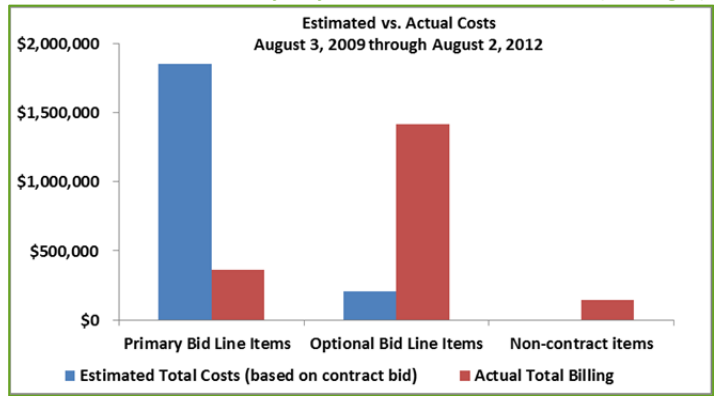
The Utilities Department and the Administrative Services Department (ASD) do not have adequate procedures in place to ensure the City’s contracts are appropriately awarded and managed in accordance with contract terms, the City of Palo Alto Municipal Code (Municipal Code), and relevant policies and procedures.

In 2009, the City awarded its contract for trenching services and the installation of electric substructure to Casey Construction, Inc. (Casey), not the lowest responsible and responsive bidder as required by the Municipal Code, which may have resulted in additional costs of approximately \$281,000. The City also paid over \$144,000 for items not identified by any line item in the contract.

A lack of adequate procedures and controls to manage the contract and monitor the performance of the contractor greatly increased the risk of fraud, waste, and abuse. Moreover, because the Utilities Department did not maintain sufficient documentation, we were unable to determine whether the City’s projects were completed in accordance with plans and cost estimates.

We encourage other City departments with contract administration roles and responsibilities to review this report and implement the recommendations where applicable. Page two of this executive summary presents highlights of findings and recommendations in this report.

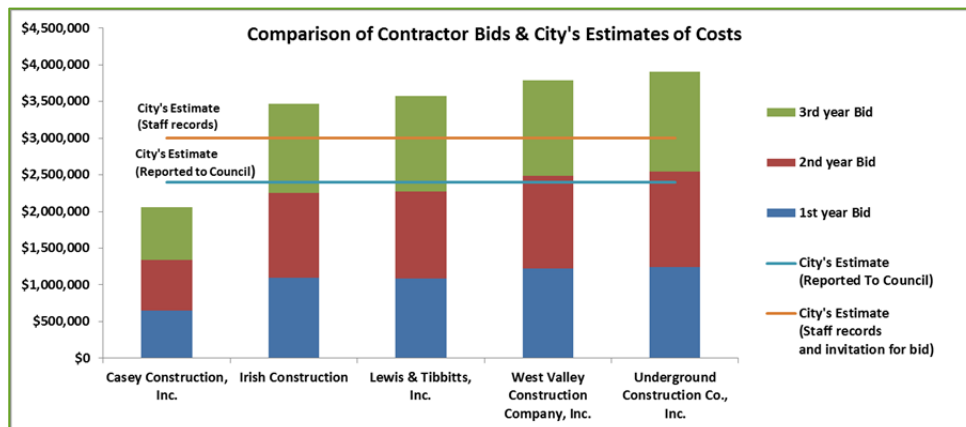
Casey invoiced the City primarily using time and materials rates (optional bid line items) that were not the basis for awarding the City’s contract. The City did not monitor variances between contract estimates and invoiced amounts; it paid all invoices, including charges for items not identified by any line item in the contract (Finding 3).



Source: City contract files and Casey billing records

In this report, the Office of the City Auditor (OCA) provides six recommendations to improve contract oversight practices within the City.

The City awarded a \$1.9 million contract for trenching services and the installation of electric substructure based on a bid that was significantly lower than other bids and the City’s own estimates. However, staff did not accurately report to City Council its estimate of total contract costs or that the selected contractor had made a significant error in its bid (Finding 1):



Source: City contract files and staff report to City Council

REPORT HIGHLIGHTS

Finding 1: The Utilities Department and ASD did not effectively address a significant variance between the City's estimate and the selected contractor's flawed bid, which may have resulted in additional costs of approximately \$281,000 (Page 11)

The City did not:

- Effectively address a significant variance between its estimate of contract costs and a bid that was significantly lower than other bids.
- Award the contract to the lowest responsible and responsive bidder, which may have resulted in additional costs of approximately \$281,000.
- Accurately report to City Council staff's original estimate of total contract costs or that the lowest bidder, which was awarded the contract, had made a significant error in its bid.

Finding 1 Recommendations:

The Utilities Department and ASD should:

- Implement policies and procedures to appropriately address significant variances between City estimates and contractor bids before awarding contracts, in order to ensure staff awards contracts to the lowest responsible and responsive bidder, as required by the Municipal Code.
- Ensure the accuracy of key information stated in staff reports submitted to City Council, including those which request authorization for the award of contracts.

Finding 2: The Utilities Department and ASD did not appropriately re-evaluate or renew the City's contract for trenching services and the installation of electric infrastructure (Page 14)

- The Utilities Department authorized about \$1.7 million in payments to Casey without a valid, renewed contract.

Finding 2 Recommendation:

The Utilities Department and ASD should review existing policies, implement new policies, and develop procedures to ensure the City's contracts are appropriately re-evaluated and renewed in accordance with the applicable contract terms and the Municipal Code.

Finding 3: The Utilities Department did not enforce contract billing terms that were the basis for awarding the contract to Casey Construction, Inc. (Page 16)

- Only 19 percent (\$365,039) of the \$1.9 million total contract payments was based on the contract's primary billing terms (bid line items), which were intended to be the main method for pricing all work under the contract.
- 74 percent (about \$1.4 million) of the \$1.9 million total contract payments was based on the contract's optional bid line items, which were mostly time and materials.
- 7 percent (\$144,141) was paid for items not identified by any line item in the contract.

Finding 3 Recommendation:

The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts.

Procedures should address the following areas:

- Monitoring of contractor billings to ensure accuracy and compliance with contract terms.
- Ensuring contracts are appropriately and timely modified, if required.

Finding 4: The Utilities Department did not appropriately manage its contract with Casey Construction, Inc. to ensure the City's projects were completed in accordance with plans and cost estimates (Page 18)

The Utilities Department did not maintain documentation showing:

- Casey quotes were reasonable, consistent with contract terms, and appropriately approved.
- Billings were consistent with quotes.
- Projects were appropriately inspected and closed out, evidencing approval and completion of planned work.

Finding 4 Recommendation:

The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts.

Procedures should address the following areas:

- Roles and responsibilities for the contract administrator and any additional training requirements for staff.
- Monitoring of contractor performance.
- Ensuring payments are made only for services and materials included in the contract scope.

This document represents a limited summary of the audit report and does not include all of the information available in the full report. The full report can be found on the Office of the City Auditor website at: <http://www.cityofpaloalto.org/gov/depts/aud/reports/performance.asp>.

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In accordance with the Fiscal Year 2014 Annual Audit Work Plan, the Office of the City Auditor has completed this Contract Oversight Audit. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We would like to thank the staff of the Utilities Department, the Administrative Services Department, and Casey Construction, Inc. for their time, information, and cooperation during the audit process.

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Glossary

Bid	Formal offer prepared in accordance with the specifications of a project to perform all or a phase of work on a project for a specified sum of money.
Bid Bond	A written form of security executed by the bidder as principal and by a surety for the purpose of guaranteeing that the bidder will sign the contract, if awarded the contract, for the stated bid amount. If the successful bidder fails to execute the contract within the time specified, the total amount of the bid security shall be forfeited to the City.
Close-out	The process to ensure all contracted goods or services have been received and accepted and that both parties to the contract have fulfilled their contractual obligations. In addition, contract close-out is the time to assess the success of the contract and determine if there are any lessons learned for future contracting.
Contract	A mutually binding, legal relationship obligating the seller to furnish supplies or services, and the buyer to pay for them.
Contract Management	According to the Purchasing and Contract Administration Division of the Administrative Services Department (ASD Purchasing): <ul style="list-style-type: none"> • Monitoring of overall vendor performance and enforcement of contract terms (department project manager) • Approving and processing invoices for payment (department project manager) • Ensuring contracts are appropriately amended using the change order process (department project manager) • Taking steps to formally terminate the contract (ASD Purchasing)
Cost-reimbursement Contract	Contract for providing for payment of allowable incurred costs to the extent prescribed in the contract.
Fixed Price Contract	Contract for providing all or a portion of work at a single price. Also, referred to as a lump sum contract.
Lowest Responsible and Responsive Bid	The Palo Alto Municipal Code states the awarding authority shall award contracts required to be formally bid to the lowest responsive and responsible bidder. <ul style="list-style-type: none"> • A responsive bidder is a bidder determined by the awarding authority to have submitted a bid that conforms in all material respects to the requirements of the bid documents. • A responsible bidder has the ability, capacity, experience, and skill to perform the work, or provide the goods and/or services in accordance with the bid specifications.
Pre-Solicitation	Contracting phase including the following (according to ASD Purchasing): <ul style="list-style-type: none"> • Preparing specifications for the bid (department project manager) • Completing a source selection plan (department project manager) • Preparing a list of bidders (department project manager and ASD Purchasing) • Developing a list of evaluation criteria (department project manager and ASD Purchasing) • Identifying evaluation team members (department project manager) • Issuing a purchase requisition (department project manager) • Funding of the contract (department project manager)
Purchasing document	In the City's SAP Enterprise Resource Planning (ERP) system, an instrument used by Purchasing to procure materials or services. SAP purchasing documents may include purchase orders and contracts.
Solicitation	Contracting phase including the following (according to ASD Purchasing): <ul style="list-style-type: none"> • Developing a time line (ASD Purchasing and department project manager) • Review and coordination of solicitation documents to issue to vendors (ASD Purchasing) • Release of the solicitation (ASD Purchasing) • Holding a pre-bid conference (ASD Purchasing and department project manager) • Preparing and releasing addendums (ASD Purchasing) • Managing the solicitation and evaluation, negotiations, managing protests, executing agreements, and turning over contracts to the project manager and department (ASD Purchasing) • Issuing City Manager's Reports to the City Council (department project manager and ASD Purchasing)
Time and Materials Contract	A type of cost-reimbursement contract where payment is based on the contractor's actual cost for labor, equipment, materials, and services plus a fixed add-on amount to cover the contractor's overhead and profit.
Unit Price Contract	A type of fixed price contract where the City pays the contractor a specified amount of money for each unit of work successfully completed as set forth in the contract. Unit-price contracts are used if the number of units (quantity) cannot be accurately determined at the start of the contract.

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INTRODUCTION

Audit Objective

To determine if the Utilities Department effectively managed its \$1.9 million contract with Casey Construction, Inc. (Casey) for trenching services and the installation of electric substructure, in accordance with contract terms, the City of Palo Alto Municipal Code (Municipal Code), and relevant policies and procedures.

Background

In 2009, the City entered into a one year contract in the amount of \$652,066 with Casey for trenching services and the installation of electric utility substructure such as conduits, boxes, and vaults. City Council authorized the City Manager or his designee to exercise an option to renew the contract with Casey for up to two additional years, for a total contract amount of \$2,055,638, plus a contingency of \$98,000. The services were for customer service installations, replacements to the existing underground electric system, and for fiber optic, street light, and communication services. According to the Utilities Department, the City does not possess the staff resources to provide electric substructure and trenching services, and these services have been contracted out for over 20 years.

Contracting

The Municipal Code fosters and encourages the use of best management practices in contracting to ensure quality and efficiency while obtaining goods, services, equipment, materials and supplies at the lowest cost commensurate with the quality needed; to provide for a fair and equitable procurement process utilizing standardized solicitation procedures; and to maintain honesty and integrity within the procurement process.

Effective contracting requires adequate controls during the three phases broadly defined by the Administrative Services Department (ASD):

- Pre-solicitation Activities
- Evaluation and Award
- Contract Administration

Inadequate controls for any of these phases can result in undesirable contracting outcomes, including potential violation of clauses in the Municipal Code, cost overruns, delays, and substandard or undelivered goods and/or services contracted.

Contract types are grouped into the following two broad categories:

Fixed-price contracts (e.g., unit price) provide for a price that is not subject to any adjustment on the basis of the contractor's costs in performing the contracted work. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties.

Cost-reimbursement contracts (e.g., time and materials) provide for payment of allowable incurred costs, to the extent prescribed in the contract. A time and materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Appropriate government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used. The

federal government, for instance, allows for time and materials contracts only if no other contract type is suitable.

The City's 2009 solicitation for the contract for trenching services and the installation of electric substructure

In May 2009, the Purchasing and Contract Administration Division of ASD (ASD Purchasing) issued an invitation for bid (IFB) on behalf of the Engineering Division of the Utilities Department. The IFB indicated the City would provide individual jobs to dig trenches and install conduits and boxes mainly for electric utility customer services, small extensions, replacements to existing underground electric system and to install communications, street light, traffic signal, and fiber optic conduits and foundations. The contract further indicated each small job would be individually quoted, a price agreed upon, and payment made upon completion of work.

The IFB indicated two types of bid line items: 1) primary bid line items, to be the main method of pricing all work and 2) optional bid line items, only to be used upon the sole discretion and approval of the City's project manager. The primary bid line items were lump sum (or unit price items), where contractors bid a unit price, factoring the City's estimate of work required under each line item. The optional bid line items were mostly time and materials, and the City only indicated an estimate of one unit required for each of these items. In determining the bid, the City totaled the extended price (by multiplying the City's estimated units for each line item by the unit price bid). The IFB specified the primary bid line items as the main method of pricing all work. The winning bid from Casey included primary bid line items which comprised 90 percent of the value of the bid for the first contract year (\$652,066), and optional bid line items which comprised only 10 percent of the bid total.

Audit Scope and Limitations

The audit scope covered the management of the City's \$1.9 million contract with Casey for trenching services and the installation of electric substructure during the three year period from August 3, 2009 through August 2, 2012. Due to inadequate documentation and the nature of the work, we were unable to provide reasonable assurance that the City paid for work that had been appropriately planned and executed under the terms and scope of the contract. Interviews with Utilities Department and ASD staff indicate the concerns raised in this audit report may be applicable to other City contracts.

The City has had other contracts with Casey that were not included in this review. Exhibit 1 summarizes approximately \$6.0 million in City contracts with Casey recorded in the City's SAP ERP system.

Exhibit 1: Summary of City Contracts with Casey Construction, Inc.^{1,2}

Contract Number	Date (SAP)	Description	Total Payments (as of 8/19/13)
C10131112	9/25/2009	Utility Trenching and Substructure Installation	\$1,926,113
C05106016A	2/18/2005	Water and Wastewater Operations Services	\$887,329
C07118587	10/19/2006	Extension of the Gailen/Bibbits Storm Drain Outfall to the Adobe Pump Station	\$747,555
C12144032	4/9/2012	Wastewater Collection System Maintenance Services	\$699,279
C07117101	6/22/2007	Storm Drain Rehabilitation and Replacement Project Phase I	\$588,999
C07121221	6/26/2007	Raw Sewage Valve Replacement Project at the Regional Water Quality Control Plant	\$450,814
C09127244	10/9/2008	Storm Drain Rehabilitation and Replacement Project Phase II	\$350,483
S12142706	9/9/2011	Construction of the Storm Drain Rehabilitation Project	\$183,951
C12145551	6/6/2012	Installation of Two Manufactured Trash Full Capture Devices	\$93,795
S12144882	5/17/2012	Site Work at Gas Receiving Stations	\$33,834
S12143795	10/17/2011	Urgent Services for a Stuck Flushing Head at a Duck Pond Site	\$18,214
Total:			\$5,980,366

Source: City of Palo Alto SAP ERP records as of August 19, 2013 and Staff Reports to City Council

Audit Methodology

We performed the following steps to assess how the City managed its 2009 contract with Casey for trenching and the installation of electric infrastructure:

- Assessed the solicitation process managed by ASD and the Utilities Department.
- Interviewed Utilities Department and ASD staff responsible for the procurement and management of the City's contract with Casey.
- Reviewed the City's SAP Enterprise Resource Planning system records of contracts and payments to Casey.
- Reviewed the terms for the City's contract with Casey, the Municipal Code, and other relevant City policies and procedures.

¹ Exhibit 1 is limited to records of contracts in the City's current SAP ERP system. Determining whether contracts in the City's SAP ERP system were properly drafted and executed was outside the scope of this audit.

² The "Date" column is based on information in the City's SAP ERP system and may differ from the actual contract date.

- Assessed the adequacy of the Utilities Department's controls to manage its contract with Casey.
- Interviewed Casey accounting and project management staff.
- Analyzed billing data and quotes obtained from Casey to determine if the work was performed and payment was made in accordance with the terms of the contract approved by City Council.

City Auditor's Conclusion

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The audit findings indicate that the Utilities Department and ASD should improve internal controls to ensure the City's contracts are appropriately awarded and managed in accordance with the Municipal Code, contract terms, and other applicable policies and procedures.

In 2009, the City awarded its contract for trenching services and the installation of electric substructure to Casey Construction, Inc., not the lowest responsible and responsive bidder as required by the Municipal Code, which may have resulted in additional costs of approximately \$281,000. The City also paid over \$144,000 for items not identified by any line item in the contract and also used the contract for work that was not covered by the contract scope.

Due to inadequate documentation and the nature of the work, we were unable to provide reasonable assurance that the City paid for work that had been appropriately planned and executed under the terms and scope of the contract. A lack of adequate procedures and controls to manage the contract and monitor the performance of the contractor greatly increased the risk of fraud, waste, and abuse.

In this report, the Office of the City Auditor provides six recommendations to improve contract oversight practices within the City. We encourage other City departments with contract oversight roles and responsibilities to review this report and implement the recommendations where applicable.

Finding 1: The Utilities Department and ASD did not effectively address a significant variance between the City’s estimate and the selected contractor’s flawed bid, which may have resulted in additional costs of approximately \$281,000³

The Utilities Department and ASD did not effectively address a significant variance between the City’s estimate of contract costs and a bid that was significantly lower than other bids. In addition, they did not accurately report to City Council staff’s original estimate of total contract costs, or that the lowest bidder, which was awarded the City’s contract for trenching services and the installation of electric infrastructure, had made a significant error in its bid. The contract was awarded based on a bid which should have raised the following concerns:

- The bid was 35 percent lower than staff’s original estimate and 41 percent lower than the next lowest bidder.
- The contractor indicated that it had misunderstood certain bid line items and that it had made a significant error in its bid.⁴
- The contractor stated it was willing to lose a \$71,000 bid bond rather than \$2 million over the next three years.

In our opinion, while the City awarded the contract to the lowest bidder, it did not award the contract to the lowest responsible and responsive bidder. Based on the available evidence, including correspondence with Casey staff and actual Casey contract billings, we conclude that while the City awarded the contract to the lowest bidder, it did not award the contract to the lowest responsible and responsive bidder, which may have resulted in additional costs of approximately \$281,000.³

The Municipal Code states:

- “A responsive bidder is a bidder determined by the awarding authority to have submitted a bid that conforms in all material respects to the requirements of the bid documents.”
- “A responsible bidder has the ability, capacity, experience, and skill to perform the work, or provide the goods and/or services in accordance with the bid specifications . . .”

³ Assuming another contractor sufficiently monitored by the City would perform a similar amount of work during a given time period.

⁴ The contractor’s significant error is not covered by the Municipal Code section that states, “The awarding authority may exercise its discretion to waive minor irregularities, defects or informalities in the bids or proposals, so long as the waiver would not affect the amount of the bid or proposal or give the bidder or proposer an advantage over others.”

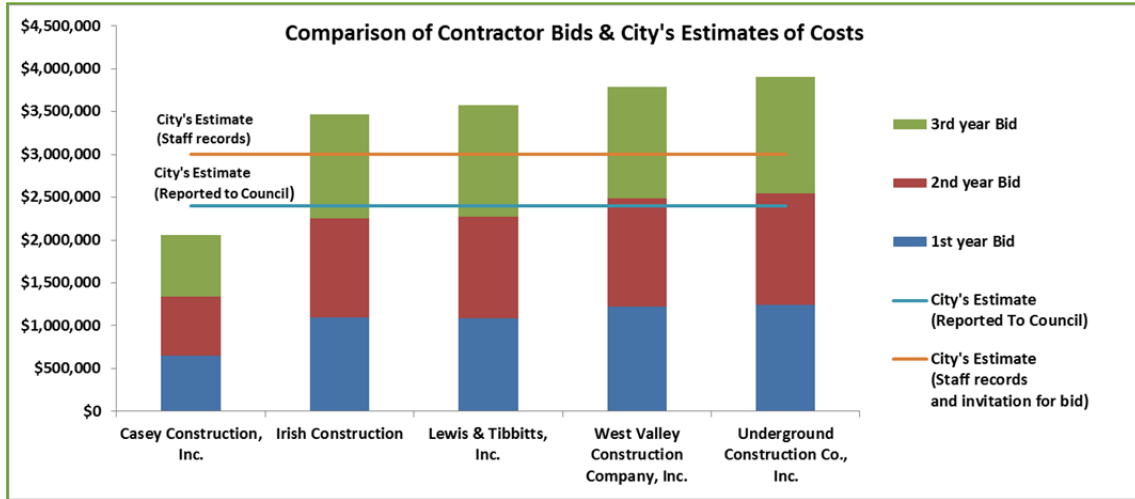
Prior to awarding the contract, City staff met with the contractor to discuss its flawed bid. City records indicate the contractor was confused about certain bid line items and in one instance thought it was replacing a parking lot. City records do not fully explain why the contractor, Casey, agreed to sign the contract or why City staff awarded the contract despite the flawed bid. According to ASD staff, the City appropriately followed up with Casey and confirmed Casey would honor the bid terms, and that at the time of the contract award, it was not known that Casey would primarily use the time and materials line items for billing the work. However, a Casey representative stated that City staff gave Casey assurance to proceed with the contract by indicating Casey could use the optional time and materials bid line items to bill the City if Casey believed work was not covered by the primary bid line items, which were specified in the contract as the main method of pricing all work.

In our opinion, Casey did not submit the lowest responsible and responsive bid considering: 1) the significance of the error in Casey's bid, 2) Casey's misunderstanding regarding the work, 3) Casey's initial desire to retract its bid, and 4) the difference between Casey's bid (\$652,066) and the City's estimate (\$1,000,000) in the City's publicly issued Notice Inviting Sealed Bids.

Staff did not accurately communicate to Council why Casey's bid was significantly lower than other bids and the City's estimates. An August 2009 staff report to Council requesting approval of the City's contract for trenching services and the installation of electric infrastructure with Casey indicated that while the City had estimated one year costs totaling \$800,000, bids submitted in response to the City's contract solicitation ranged from a low of \$652,066 to \$1,239,462. The report to Council stated the low bid from Casey, which was "19 percent below the staff/engineer's estimate of \$800,000" was due to "the lack of demand for construction projects." The report to Council did not indicate: 1) Casey had submitted a flawed bid, 2) the reason for awarding the contract despite the flawed bid, or 3) the reason why Casey agreed to sign the contract despite the flawed bid. Moreover, the City's publicly issued Notice Inviting Sealed Bids and other documentation indicated an original estimate of costs in the range of \$1 million. Casey's bid was actually about 35 percent lower than staff's original estimate, not 19 percent, as reported by staff to Council.

Exhibit 2 summarizes the five bids submitted to the City, including the bid from Casey, which was significantly lower than the City's estimates and bids from other vendors. The exhibit also shows the discrepancy between the City's estimate of costs as reported in the City's IFB and the estimate of costs stated in the staff report to Council.

Exhibit 2: The City awarded its contract based on a bid that was significantly lower than other bids and City estimates



Source: City contract files and staff report to City Council

Casey billed the City primarily using optional bid line items, which were mostly time and materials rates. As discussed in the Background, the IFB specified the primary bid line items, which were lump sum or unit price items, as the main method of pricing all work under the contract for trenching services and the installation of electric infrastructure. Fixed price or lump sum contracting practices are considered lower risk for the City, placing the burden for effective containment of costs on the contractor, as opposed to time and materials contracting strategies. Casey primarily invoiced the City using the optional bid line items, which were mostly time and materials, in addition to billing the City for items not identified by any line item in the contract (Finding 3). Assuming use of the time and materials line items was appropriate, the City may have saved approximately \$281,000 if it had awarded the contract to the second lowest bidder.⁵ The new contract for trenching and the

Finding 1 Recommendations to City Management:

The Utilities Department and ASD should:

1. Implement policies and procedures to appropriately address significant variances between City estimates and contractor bids before awarding contracts, in order to ensure staff awards contracts to the lowest responsible and responsive bidder, as required by the Municipal Code.
2. Ensure the accuracy of key information stated in staff reports submitted to City Council, including those which request authorization for the award of contracts.

ASD should:

3. Prioritize implementing a system to electronically record and track vendor bids as part of any future system implementation for ASD Purchasing.

⁵ Assuming another contractor sufficiently monitored by the City would perform a similar amount of work during a given time period.

installation of electric substructure was bid out on a time and materials basis and was not awarded to Casey.

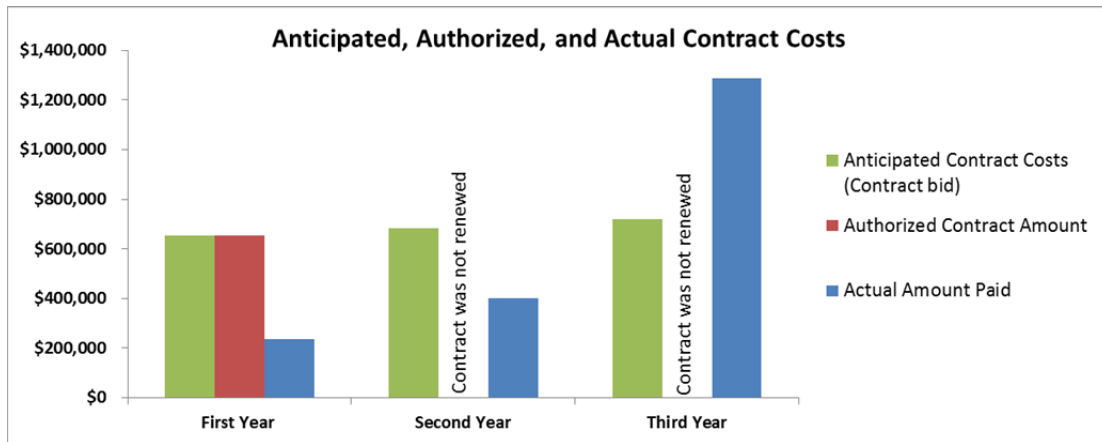
We identified approximately \$6.0 million in total payments under contracts with Casey dating back to 2005 (Exhibit 1). There were at least two other instances where Utilities Department contracts were awarded to Casey based on a bid that was significantly lower than other competing bids (i.e., the second lowest bid was more than 33 percent greater than Casey’s bid). A detailed review of these agreements was outside the scope of this audit.

In addition, the City does not have a database of vendor bids that could provide transparency into the contract award process or facilitate a detailed and complete analysis. ASD Purchasing staff manually records and compiles vendor bids into hard copy contract files.

Finding 2: The Utilities Department and ASD did not appropriately re-evaluate or renew the City’s contract for trenching services and the installation of electric infrastructure

The Utilities Department authorized about \$1.7 million in payments to Casey without a valid, renewed contract. The City entered into a one year contract with Casey in August 2009 for \$652,066. The contract included an option for the City to extend the initial 12 month term for up to two additional 12-month periods, provided Casey was responsive to the City’s needs and that the quality of Casey’s work was acceptable during the first year of the contract. The anticipated contract costs for the extended three year period were about \$2.1 million. As shown in Exhibit 3, the City did not formally execute a new agreement document for each extension year as required by the contract, and there is no evidence staff formally assessed Casey’s performance or contract compliance.

Exhibit 3: The City had an authorized contract for only the first year of services Casey provided⁶



Source: City contract files and Casey billing records

⁶ The City had an authorized contract for only the first year which was the period from August 3, 2009 through August 2, 2010. The second year was the period from August 3, 2010 through August 2, 2011, and the third year was the period from August 3, 2011 through August 2, 2012.

The City paid Casey about \$1.9 million for services during the period from August 3, 2009 through August 2, 2012. This total included about \$1.7 million in payments to Casey without a valid, renewed contract. Approximately \$1.3 million of the \$1.7 million was more than the authorized contract value of \$652,066 for the authorized one-year term (August 3, 2009 through August 2, 2010). Moreover, most of the contract billings (\$1,287,628) occurred during the third year of the contract, when contract rates were the highest due to an escalation factor of 5 percent for each subsequent 12-month extension of the contract. The timing of all work may not have been within the City's control.

The City did not formally renew the contract with Casey, as required:

- The contract with Casey states: "The City and the Bidder/Contractor shall enter into a new agreement for each extension year, if any, and the Bidder/Contractor shall provide new Payment and Performance Bonds prior to the commencement of the extension year in the amount of the maximum contract amount for that year."
- The August 2009 staff report to City Council states: "Staff also recommends that Council approve and authorize the City Manager or his designee to exercise the option to renew the contract for up to two additional twelve month periods . . . provided the contractor is responsive to the City's needs, and the quality of the contractor's work is acceptable during the first year of the contract."
- The Municipal Code states: "Amendments or change orders made under authority granted by the [City] Council shall be in writing, accomplished in accordance with the terms of the original contract and shall not cause the contract as modified to exceed the limits of the authority granted by the [City] Council . . ."

ASD staff stated that although payment and performance bonds were not collected for each extension year as required by the contract, the contract was extended into subsequent fiscal years when staff completed the purchase requisition and purchase order process in the SAP system. Staff indicated it would be overly burdensome to formally renew contracts in such instances considering the volume of existing City contracts.

Finding 2 Recommendation to City Management:

4. The Utilities Department and ASD should review existing policies, implement new policies, and develop procedures to ensure the City's contracts are appropriately re-evaluated and renewed in accordance with applicable contract terms and the Municipal Code.

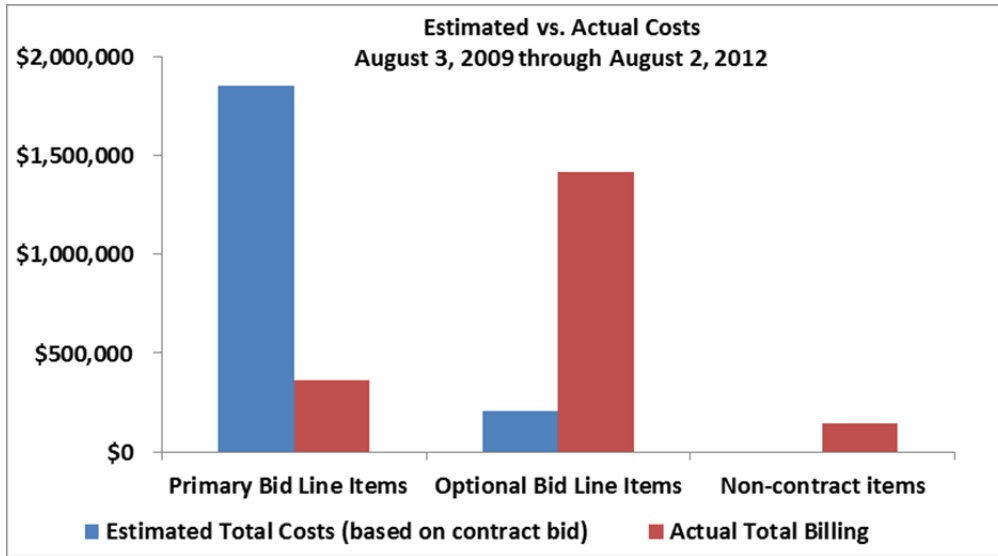
Finding 3: The Utilities Department did not enforce contract billing terms that were the basis for awarding the contract to Casey Construction, Inc.

The City inappropriately approved and paid about \$1.4 million in invoices for optional bid line items that were not intended to be the main method for pricing all work under the contract. The City may have saved approximately \$281,000 if it had awarded the contract to the second lowest bidder (Finding 1). In addition, the City may have saved over \$144,000 in contract costs if it had disallowed charges for items not identified by any line item in the contract. In order to compare Casey billings with contract estimates, we obtained contract billing data from Casey. As illustrated in Exhibit 4, our analysis of billing data from Casey indicates:

- Only 19 percent (\$365,039) of the \$1.9 million total charges was based on the contract’s primary bid line items, which were intended to be the main method for pricing all work and were designed using a conservative lump sum or unit price strategy that is financially protective of the City (Finding 1).
- 74 percent (about \$1.4 million) of the \$1.9 million total contract payments was based on the contract’s optional bid line items, which were mostly time and materials. Staff authorized payment of invoices even though these line items were not intended to be the main method for pricing all work under the contract and only represented 10 percent of Casey’s bid total. Given additional risks to the City, staff should have at least implemented additional controls to evaluate Casey’s performance and should have retained sufficient documentation of contracted work.⁷
- 7 percent (\$144,141) was paid for items not identified by any line item in the contract. This amount includes:
 - \$52,223 for materials.
 - \$31,895 for a line item not included in the contract but identified as “Excavator.”
 - \$23,327 for dump fees, even though the contract specified it was the contractor’s responsibility to dispose of refuse materials.

⁷ As discussed in the Background on page 7, fixed price or lump contracts (e.g., unit price) place upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss while cost-reimbursement (e.g., time and materials) contracts provide no positive profit incentive to the contractor for cost control or labor efficiency, requiring additional controls to ensure efficient methods and effective cost controls are being used.

Exhibit 4: Significant variances between contract estimates and actual costs



Source: City contract files and Casey billing records

Our detailed analysis of billings by contract line item indicates:

- Contract line items that did not provide cost savings to the City appeared overutilized; Casey billed the City significantly more than contract estimates using bid line items that did not support the contract award made to Casey.
- Contract line items that would have provided greater cost savings to the City appeared underutilized; Casey billed the City significantly less than contract estimates using bid line items that supported the contract award made to Casey.

Utilities Department staff stated they permitted Casey to charge the City using time and materials line items because Casey argued that the lump sum or unit price line items in the contract did not cover the scope of work. However, a Casey representative stated shortly after the contract had been awarded, City staff communicated that Casey could use the time and materials line items in response to Casey’s concerns about errors in its bid (Finding 1). In regard to items not included in the contract, staff stated the Utilities Department allowed Casey to charge for dump fees because the City’s dump closed during the term of the contract. According to Casey, it charged for required materials under the contract if the City did not provide them. Casey added a 5 percent surcharge to material costs submitted to the City for reimbursement.

The Utilities Department did not have controls to ensure any use of time and materials line items to price work was formally authorized and permitted only on an exception basis, as intended by the contract. There was no evidence of steps taken to appropriately modify the contract, in accordance with contract terms and the Municipal Code, had the department decided the original terms did not meet the City’s requirements. Finally, there was no evidence that invoices from Casey were adequately reviewed or that staff challenged questionable charges (Finding 4).

It was not practical to assess the lost savings opportunities to the City because Casey primarily used time and materials line items instead of the intended lump sum or unit price line items. However, the City may have saved approximately \$281,000 if it had awarded the contract to the second lowest bidder (Finding 1). The City may have saved over \$144,000 in contract costs if it had disallowed charges for items not identified by any line item in the contract. It was outside the scope of this audit to determine if the City already had appropriately negotiated contracts or other authorized sources to procure these items at more favorable rates.

Finding 3 Recommendation to City Management:

5. The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts.

Procedures should address the following areas:

- ✓ Monitoring of contractor billings to ensure accuracy and compliance with contract terms.
- ✓ Ensuring contracts are appropriately and timely modified, if required.

Finding 4: The Utilities Department did not appropriately manage its contract with Casey Construction, Inc. to ensure the City's projects were completed in accordance with plans and cost estimates

The Utilities Department did not have sufficient controls to effectively manage its contract with Casey. The Utilities Department approved and paid Casey invoices without evidence that work had been planned, executed, and billed under the contract terms. There were a lack of controls and insufficient documentation in the following three areas:

1. **The Utilities Department did not maintain documentation showing Casey quotes were reasonable, consistent with contract terms, and appropriately approved.** The contract stated that individual jobs would be given to Casey and that each job should have an individual quote, an agreed upon price, and payment made upon completion of work. We found:

- No evidence the City had a process to request, approve, or retain quotes. In order to perform our review, we obtained available quotes totaling approximately \$1.1 million from Casey; however, there was no documentation available showing the City approved any of these quotes. According to Casey, anyone in the City could have requested work, including inspectors who were responsible for monitoring and verifying the work done.
- The scope of the work was not clearly identified in most of the quotes; the quotes indicated the job location, the contract line items, and the estimated hours and charges to the City.
- There was no evidence of an independent estimate or verification of the prices or work quoted by Casey under the contract.
- The hourly rates in quotes appear inflated. For example, quotes generally listed all staff that would work on the job (including truck drivers for example) and aggregated their hourly rates into a single combined rate used to bill the City, implying all Casey staff worked during the entire duration of the job (Attachment 1). According to a Casey representative, all Casey staff did in fact work during the duration of the job; however, they would rotate duties when not doing their primary task. For example, a truck driver could direct traffic.

2. The Utilities Department staff reviewed invoices; however, the review process did not ensure compliance with contract terms, and the Utilities Department did not maintain documentation showing that billings were consistent with quotes.

The Utilities Department approved and paid Casey invoices without evidence that work had been planned, executed, and billed under the contract terms. According to a Casey representative, the invoices indicated the actual work done, and they could have varied from the quotes. We found:

- Staff did not use the contract, quotes, or other documentation of an accepted scope of work in reviewing and approving Casey invoices. Instead, the first level of approval by staff was based on information provided by Casey such as timesheets and billing documents showing hours, contract line items, and other rates used to bill the City. For most invoices, the next level of approvals of Casey invoices was based on minimal information such as the job site location, work order number, and amount billed.
- Staff approved work that was not included in the contract scope. For example, we noted the City paid a \$57,000 invoice with minimal supporting documentation, which consisted of daily timesheets with hours charged but no indication of the work completed for each day. Staff indicated Casey laid road rock for an electric substation and confirmed the work was not covered by the contract scope.
- The City paid the invoices without withholding 10 percent of amounts until the final contract payment was made, as required by the contract.

3. The Utilities Department did not maintain documentation showing projects were appropriately inspected and closed out, evidencing approval and completion of planned work.

According to Utilities Department staff, the scope of work for each project was communicated in project files provided by engineers to inspectors; however, progress made on the planned work was not formally documented or signed off. The close-out process helps ensure all contracted goods or services have been received and accepted and that both parties to the contract have fulfilled their contractual obligations. In addition, contract close-out is the time to assess the success of the contract and determine if there are any lessons learned for future contracting.

Finding 4 Recommendation to City Management:

6. The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts.

Procedures should address the following areas:

- ✓ Roles and responsibilities for the contract administrator and any additional training requirements for staff.
- ✓ Monitoring of contractor performance.
- ✓ Ensuring payments are made only for services and materials included in the contract scope.
- ✓ Ensuring there is an adequate process and documentation to show planned work has been completed.

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ATTACHMENT 1: Example of Quote from Casey Construction, Inc. (2 pages)

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Casey Construction, Inc.

December 10, 2010

City of Palo Alto

Palo Alto, Ca. 94303

Auditor's Note 1:
The work quoted does not appear to be covered by the contract scope.

Reference: 2009-2010 Utility Project

Attn: [Redacted]
Cost to perform work at Hanover Substation.

Excavate 4" deep x approximately 16,000 sq. ft., off haul and dump. Import 4" x 16,000 sq. ft. of 1.5" rock per spec and place.

Off haul approximately (30) 10 wheeler loads of dirt. Import approximately 17 end dump loads of rock.

Excavation crew and equipment

Item #		
047 – Foreman	1 hr @ \$84.00/hr	\$84.00
048 – 2 Laborers	1 hr @ \$48.30/hr ea	\$96.60
049 – Equipment Operator	1 hr @ \$52.50/hr	\$52.50
050 – 2 Drivers	1 hr @ \$52.50/hr ea	\$105.00
053 – Foreman's truck	1 hr @ \$10.50/hr	\$10.50
054 – Crew truck	1 hr @ \$21.00/hr	\$21.00
057 – Backhoe	1 hr @ \$42.00/hr	\$42.00
060 – 2 - 10 Wheelers	1 hr @ \$36.75/hr ea	\$73.50
070 – Excavator	1 hr @ \$57.50/hr	\$57.50
TOTAL		\$542.60/hr for crew

34 hrs @ \$542.60/hour = \$18,448.40

Auditor's Note 2:
The contract did not include line item 70.

Auditor's Note 3:
Time and Materials hourly rates (including \$105/hour for two drivers) were aggregated into a combined rate (\$542.60/hour) and applied to the entire estimated 34 hours.

[Redacted] ⋮

Page 2

Place rock, crew & equipment

047 – Foreman	1 hr @ \$84.00/hr	\$84.00
048 – 2 Laborers	1 hr @ \$48.30/hr ea	\$96.60
049 – Equipment Operator	1 hr @ \$52.50/hr	\$52.50
050 – 4 Drivers	1 hr @ \$52.50/hr ea	\$210.00
053 – Foreman’s truck	1 hr @ \$10.50/hr	\$10.50
054 – Crew truck	1 hr @ \$21.00/hr	\$21.00
057 – Backhoe	1 hr @ \$42.00/hr	\$42.00
059 – 3 End Dumps	1 hr @ \$47.25/hr ea	\$141.75
060 – 1 - 10 Wheelers	1 hr @ \$36.75/hr ea	\$36.75
070 – Excavator	1 hr @ \$57.50/hr	\$57.50
TOTAL		\$752.60/hr for crew & equip.

Import and place rock – 24 hrs at \$752.60/hour total \$18,062.40

Auditor’s Note 4:
The contract did not include line item 70.

16,000.00 SF x 0.33’ = approximately 17 end dump loads
 Cost per end dump = \$430.00
 Total cost of rock = \$430.00 x 17 = \$7,310.00

Auditor’s Note 5:
Time and Materials hourly rates (including \$210/hour for four drivers) were aggregated into a combined rate (\$752.60/hour) and applied to the entire estimated 24 hours.

Excavation T&M	\$18,448.40
Import rock & place T&M	\$18,062.40
Cost of rock	\$7,310.00
16,000 SF of filter fabric at \$1/SF	\$16,000.00
Estimated total	\$59,820.80

NOTE: Estimation based on dumping in Palo Alto dump with City of Palo Alto paying dump fees/

Auditor’s Note 6:
Quote included items not covered by the contract line items including \$7,310 in “rock” and \$16,000 in “filter fabric.”

Thank you,



ATTACHMENT 2: City Manager’s Action Summary (Including Attachments)

In response to the Audit Recommendations in this report, the City Manager has agreed to take the following actions. We will review and report progress on implementation of these recommendations during our audit recommendation follow-up process. The full response from the City Manager is included in Attachment 3.

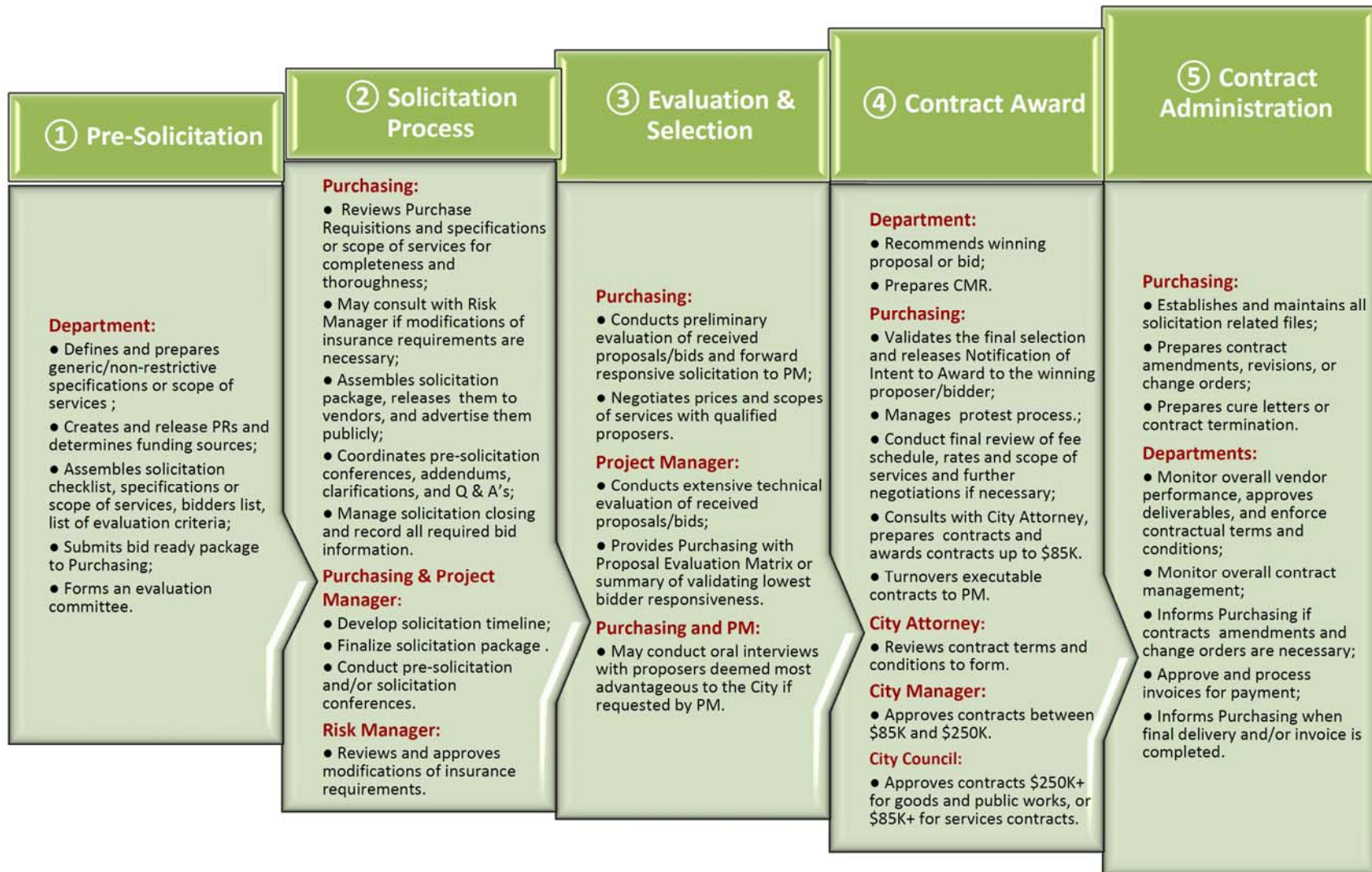
Finding #	Recommendation	City Manager’s Action Plan	Target Date
1	1. The Utilities Department and ASD should implement policies and procedures to appropriately address significant variances between City estimates and contractor bids before awarding contracts, in order to ensure staff awards contracts to the lowest responsible and responsive bidder, as required by the Municipal Code.	When there are significant differences between the lowest bid and staff estimates or other bids, City Staff will set up a meeting with the lowest bidder to ensure that its bid is correct, that it can perform the work as described, and to ensure compliance with Municipal Code 2.30.440. Staff will document this discussion with the bidder to include: <ul style="list-style-type: none"> • Date of the meeting • Attendees at the meeting • Description of the questions related to the bidders submittals • Summary of the discussion • Staff and contractor agreement/resolution of questions • Next steps 	Immediately
1	2. The Utilities Department and ASD should ensure the accuracy of key information stated in staff reports submitted to City Council, including those which request authorization for the award of contracts.	The Utilities Department prepares the staff report based on the most current information that is available including notation of any changes of staff estimates. ASD reviews staff reports requesting award of Utility contracts. As part of this review ASD validates the summary of solicitation information. ASD will continue to perform this function and will put an extra emphasis as a result of this finding to match key figures in the solicitation summary to the actual solicitation documents.	Immediately

Finding #	Recommendation	City Manager’s Action Plan	Target Date
1	3. ASD should prioritize implementing a system to electronically record and track vendor bids as part of any future system implementation for ASD Purchasing.	Staff is in the early phase of reviewing online bid options and will issue a request for proposal for such a service.	Issue RFP 2014
2	4. The Utilities Department and ASD should review existing policies, implement new policies, and develop procedures to ensure the City’s contracts are appropriately re-evaluated and renewed in accordance with applicable contract terms and the Municipal Code.	<p>Policies and procedures will be reviewed, revised, and implemented to evaluate contractor work every 12 months, at a minimum. This may include periodic meetings with the contractor during the year to discuss issues with performance, contract compliance, or invoicing. The evaluation criteria shall include:</p> <ul style="list-style-type: none"> • Performance • Compliance with the contract • Responsiveness to work scheduling • Accuracy of estimates • Accuracy of invoicing • Responsiveness to City issues <p>ASD staff will create a contract monitoring checklist to aide in regular contract administration. The checklist will prompt for review of contract terms, contractor deliverables, project milestones, payments, and overall performance. The information collected via the checklist will aid in performance review when contract renewal is sought.</p>	December 31, 2013
3	<p>5. The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City’s contracts.</p> <p>Procedures should address the following areas: ✓ Monitoring of contractor billings to ensure accuracy and compliance with contract</p>	<p>Utilities staff is formalizing the process by which work is requested of the contractor, approved, inspected, reviewed for completion, and invoices reviewed and approved for payment including:</p> <ul style="list-style-type: none"> • Roles and Responsibilities for Substructure Contract • Flow Chart Diagram <p>Utilities is in the process of hiring a Coordinator Utilities</p>	March 31, 2014

Finding #	Recommendation	City Manager's Action Plan	Target Date
	<p>terms.</p> <p>✓ Ensuring contracts are appropriately and timely modified, if required.</p>	<p>Project to assist Engineering in administrating contracts, verifying invoices and processing payments. Utilities will be requesting for similar positions in Operations and Customer Support Services in the 2014 mid-year budget.</p> <p>Utilities will also develop a tracking mechanism to monitor contractor work, reconcile invoices and verify payments which includes:</p> <ul style="list-style-type: none"> • Service Order number • Scope of work and link to project as-built drawings • Contractor work estimates • Project change orders and explanations • Invoices and payments • Explanations for estimate/actual cost variances • Name of project engineer • Name of project inspector • Name of contractor crew foreman • Comments on project issues or contractor performance <p>ASD will conduct a review of the entire purchasing process citywide to review current best practices and layout a plan for improvement to align with current best practices where needed. This review may include a third party.</p> <p>The departments will collaborate to bring contract management training to appropriate staff. This training will be rolled out to all departments.</p>	
4	6. The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts.	Recommendation 5 & 6 are similar. See response to recommendation 5.	

Finding #	Recommendation	City Manager's Action Plan	Target Date
	<p>Procedures should address the following areas:</p> <ul style="list-style-type: none"> ✓ Roles and responsibilities for the contract administrator and any additional training requirements for staff. ✓ Monitoring of contractor performance. ✓ Ensuring payments are made only for services and materials included in the contract scope. ✓ Ensuring there is an adequate process and documentation to show planned work has been completed. 		

Contract Process



Substructure Contract – Roles and Responsibilities

CONTRACT MANAGER/SENIOR ELECTRICAL ENGINEER

- Completes bid/award process to select the substructure contractor
- Tracks project costs to ensure approved contract amount is not exceeded
- Initiates appropriate actions when projected costs may exceed contract or project budget amounts
- Reviews and submits contract Change Orders for approval
- Reviews invoices and submits for approval and payment
- Reviews contractor performance on an annual basis and determines if contract should be renewed or canceled (if appropriate)
- Addresses issues with the contractor on timely basis
- Obtains approval for yearly contract funding

COORDINATOR UTILITIES PROJECT (NEW)

- Supports Contract Manager as necessary
- Tracks project costs to ensure approved contract amount is not exceeded
- Notifies Contract Manager when projected costs may exceed contract or project budget amounts
- Prepares and submits contract Change Orders for approval
- Reviews invoices and submits for approval and payment
- Reconciles invoices to completed work and bid items
- Addresses issues with the contractor as required
- Maintains records of project documents and contract related information
- Develops tools to facilitate effective contract management

PROJECT ENGINEER/ESTIMATOR

- Develops drawings and scope of substructure work in collaboration with Operations
- Requests quotes from substructure contractor
- Reviews quotes, ensures it complies with contract and covers scope of work requested, negotiates scope and cost as necessary
- Ensures contract financial limits will not be exceeded
- Reviews project Change Orders for approval
- Approves work – signs quote and returns to contractor
- Reviews invoices, reconciles against quote, scope of work, and change orders

UNDERGROUND INSPECTOR

- Collaborates on project scope
- Inspects contractor work to ensure it meets standards and requirements
- Reviews daily contractor timecards to reflect work completed
- Reviews project Change Orders for approval
- Provides input on contractor performance
- Ensures work complies with contract and scope of work

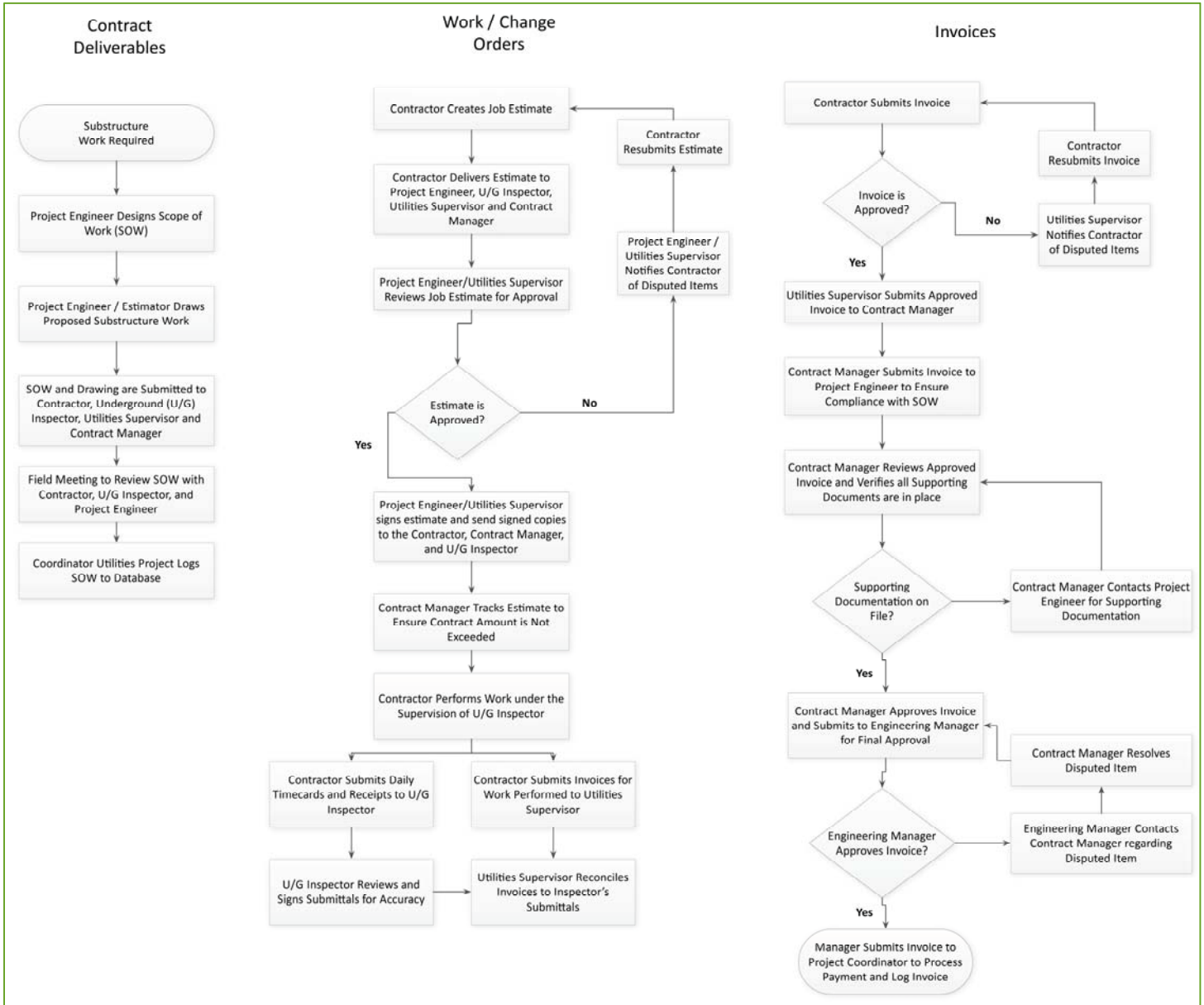
ELECTRIC OPERATIONS SUPERVISOR

- Collaborates on project scope
- Reconciles timecards, estimates, invoices, and scope of work
- Reviews invoices to ensure accuracy
- Approves invoices and forwards to contract manager

- Reviews contractor performance for maintenance work
- Develops drawings and scope of substructure work for maintenance work
- Requests quotes from substructure contractor for maintenance work
- Reviews quotes, ensures it complies with contract and covers scope of work requested, negotiates scope and cost as necessary
- Reviews project Change Orders for approval

CONTRACTOR

- Prepares quotes for construction work
- Obtains signed approval of contractors quote
- Performs work
- Provides contract and project change orders as required
- Provides daily timecards and documentation on work completed
- Submits invoices for work



ATTACHMENT 3: City Manager's Response



CITY OF PALO ALTO MEMORANDUM

TO: City Auditor

FROM: James Keene, City Manager

PREPARED BY: Valerie Fong, Utilities Director and Lalo Perez, Administrative Services Director/CFO

DATE: October 25, 2013

SUBJECT: City Manager's Response to Audit of Contract Oversight: Trenching and the Installation of Electric Substructure

The Utilities and Administrative Services Departments (ASD) staff acknowledge and appreciate the detailed work of the City Auditor's Office and appreciate the opportunity to respond to the "Audit of Contract Oversight: Trenching and the Installation of Electric Substructure". The Utilities and Administrative Services Departments further acknowledge the many points and recommendations identified in the audit. The attached City Manager's Action Summary details the steps that the departments will take to improve the processes found to be deficient. The following summary and discussion provides additional context on the points made in the audit from the perspective of the Utilities and Administrative Services Departments.

Summary

Staff acknowledges the importance of contract administration and has made it a top priority to establish procedures to ensure proper execution and documentation of contracts. Utilities has already implemented process changes in the current contract for substructure installation to address the shortcomings identified in the audit.

Even before the audit was conducted, City Staff had recognized a need to establish a new staff position to address the growing number of contracts to perform maintenance and construction for utility service. In response to this need, a position was reclassified in the FY 2014 budget to establish a Utility Project Coordinator position in the Engineering division of the department to monitor and establish consistent procedures and to ensure compliance with contract terms. This position is currently in the recruitment process and is expected to be filled by early December. As a result of this audit report, Utilities will also be seeking positions in the FY 2014 budget mid-year

review process to assist with contract management in the Operations and Marketing Services divisions of the department to ensure contracts are properly managed.

Utilities will also be requiring that staff managing contracts attend courses on preparing Request for Proposals (RFP), Invitations for Bids (IFB), and contract management. To date, we have already had one course on Project Management of IT projects and a second course on preparing RFPs. The purpose of these courses is to train employees to be proficient project managers.

The large turnover in staffing over the last several years has resulted in new staff taking over projects in situations where they were not fully trained on how to manage contracts. In order to avoid being in this situation in the future, we will be adding formal contract management training as a requirement for new employees that will be managing contracts.

Utilities staff also wants to reassure the City Auditor and City Council that the invoices performed under the previous contract were reviewed by staff to validate work performed by the contractor and to ensure services were properly billed. Additional documentation is available, however, it would require a significant amount of time to extract data from emails and job folders in archived data sets. Since the documentation was not easily retrievable for review, staff recognizes the City Auditor's challenges during the audit. As a result of this situation, Utilities has already implemented new procedures for documenting and compiling records so that supporting documentation and associated approvals are readily accessible for review.

Discussion

The substructure contract is not a typical construction type of contract. Generally, a construction contract has a specific and clearly defined scope of work to be completed (i.e. pipeline replacement on a specific street). In the substructure contract, the actual work performed is not defined in advance because specific work is not identified until a need is determined. A need may be the result of pre-planned maintenance work, an emergency-related event, a customer specific project, or in response to a short notice request for work. The majority of the work performed under this contract is for new electric service connections for customers including installation of substructure required for electrical conductors and equipment to provide service to customers. As a customer convenience, the City/Utilities Department offers these services upon customer request. The customer is not obligated to use the City's contractor, and instead can opt to have the work performed by his/her own contractor. Typically the customer will request the service from the City because the City's charges are generally lower than the customer's contractor's charges and because it streamlines the City's permitting process.

For over 20 years, the City has contracted with a third party general contractor for trenching services and installation of electric utility substructure, such as conduits, boxes, and vaults, for new customer installations of electric and fiber optic services and

for the replacement of failed underground electric system equipment. The City determined that it was more cost effective to provide these services by contract because of the unplanned nature of the work, and as a result the City does not possess staffing resources to provide the electric substructure and trenching services.

In the past, the trenching and substructure installation contracts have been awarded either as time and material contracts or fixed price plus optional time and material contracts. The 2009 Invitation for Bid (IFB) for trenching was bid as a fixed price plus optional time and material contract in an attempt to control costs. During the first six months of the contract which was awarded to Casey Construction, Utilities staff attempted to use the fixed cost items. However, it became increasingly difficult to manage the contract due to field conditions and project specifications that did not align with the fixed price items. For this reason the decision was made to use time and material pricing that was part of the contract. In the future, with the benefit of hindsight, in light of the unpredictable nature of the work, staff will seek time and material bids for this type of work and examine each individual bid price with the contractor before approving the work.

The Findings in the report are addressed below:

Finding 1: The Utilities Department and ASD did not effectively address a significant variance between the City's estimate and the selected contractor's flawed bid, resulting in additional costs of approximately \$281,000.

The City's Purchasing Manual, which is guided by the municipal code, spells out the role of the ASD Purchasing Division from the service solicitation phase through the contract award phase. The final phase, contract administration, is the responsibility of the department, according to the Purchasing Manual. For contract award the ASD Purchasing Division must ensure that a bid is the lowest, responsive, and responsible bid in order to receive the contract. (See the attachment "Contract Process" for a flow-chart of the purchasing process.)

At the time of award, Casey Construction's bid was the lowest, responsive and responsible bid received. A representative from Casey Construction expressed concerns to City staff about the accuracy of their bid. However, in a subsequent telephone conversation, between the owner of the company and the City's contract manager in charge of the bid, the owner affirmed the company's bid and their intent to perform the work within the contract terms. The day following this conversation Casey Construction sent a letter to the City's contract manager confirming the company's commitment to the bid and the contract terms. With this information, staff deemed the bid submitted by Casey Construction as the lowest, responsive and responsible bid.

In the future, when there are significant differences between the lowest bid and staff estimates or other bids, City Staff will set up a meeting with the lowest bidder to ensure

that its bid is correct, that it can perform the work as described, and to ensure compliance with Municipal Code 2.30.440.

When the IFB was developed, staff estimated \$1 million in costs annually for trenching and substructure installation based on historical expenditures for electric and fiber connections and system improvement work. Between the time of the issuance of the IFB and the writing of the staff report going to Council, the \$1 million estimate was reduced to \$800,000 due to the economic downturn and low number of construction projects in the pipeline. Staff reported the best estimate that was available at the time of the report. Staff agrees that additional information should have been in the staff report to address the change in the engineering estimate that occurred after the contract was bid. In the future if the engineering estimate changes after the bidding process the Staff Report will indicate the change and the reason for the change.

The amount of work contracted out in the first two years (Year 1 - \$250,000, Year 2 - \$450,000) was significantly less than the revised estimated due to low demand for construction activity from 2009 through 2011. During various reviews of contracts, Council had suggested that City staff develop estimates reflecting the then current market conditions, but it is difficult to project the amount of construction activity and the type of work required for projects. In the future, staff will note any changes of staff estimates.

Since the vendor had raised concerns about their own bid, concerns that were later resolved when the vendor accepted the terms of the contract, never the less ASD staff should have followed up with Utilities staff after the award of the contract to review whether the terms of the contract were being met by the vendor. ASD, in collaboration with the Contract Management Review Team established by the City Manager, will evaluate the contract monitoring function and determine if reassignment of staff or adding of staff is needed to strengthen the contract monitoring function in departments.

Finding 2: The Utilities Department and ASD did not appropriately re-evaluate or renew the City's contract for trenching services and the installation of electric infrastructure.

Staff agrees that the renewal was not done as specified in the contract terms. Contracts like this have routinely been renewed by processing a Purchase Requisition in SAP. In the future staff responsible for contract and project management will follow the procedures as outlined in the contract including a formal evaluation of the contractor's performance, contract compliance, and responsiveness within twelve months at a minimum.

At the time of renewal, the contractor's performance was reviewed to determine if the contract would be extended. The Utilities Department considered rebidding the

contract after the first year of the contract following indications by the contractor that the work volume was too low to justify contract continuation. Utilities staff completed the IFB package and was prepared to go out for a new bid. When the contractor was informed of this they indicated that they would honor the second year of the contract. Since the contractor was performing satisfactorily per the review, and due to the long ramp up time that is required for a new contractor to become productive, Utilities staff recommended the renewal of the contract with Casey Construction. In the future staff will include a statement of satisfactory contractor performance in the contract file.

To reduce redundant paper work and processing, future multiyear contracts will be written as three year contracts that do not require reissuing the contract for every renewal year, with the stipulation that the contract can be cancelled at any time. The latest substructure contract was issued as a three year contract.

ASD staff will create a contract monitoring checklist to aid in regular contract administration. The checklist will prompt for review of contract terms, contractor deliverables, project milestones, payments, and overall performance. The information collected via the checklist will aid in performance review when contract renewals or extensions are sought.

ASD will be conducting a review of the Purchasing process, roles and responsibilities, and contract monitoring to determine if additional duties should be assigned to ASD based on best practices and other models and to calculate whether additional staffing resources are needed. ASD staff expects initial recommendations from this review to be ready in early 2014.

Finding 3: The Utilities Department did not enforce contract billing terms that were the basis for awarding the contract to Casey Construction, Inc.

Utilities staff acknowledges that a majority of the contract was not administered as the contract was originally bid. It became apparent in the first year of the contract that the contract bid items were not matching up with the field conditions as extensive negotiation was required with the contractor on each job to resolve the items not covered in the bid items. Based on the uniqueness of the individual jobs, staff decided to use the time and material section of the contract instead of the fixed bid items. In retrospect it is very clear that staff should have rebid the contract after the first year as a time and material contract.

City staff will review and update the contract administration process which will encompass the dealings between the City and the contractor from the time the contract is awarded until the work has been completed and inspected or the contract terminated. Contract administration will also include contract amendments, payments, and dispute resolutions. The primary objective of contract administration is to establish

best practices across all departments to achieve high quality contractor performance while staying within budget.

The audit identified \$144,000 of materials and services that were not included in the contract. Most of these items were needed to complete the jobs assigned to the contractor and are legitimate expenses that the city would have paid to a third party to complete the work. These charges were documented in the invoices from the contractor and approved by staff. However, when work that was outside the bid items in the contract was required, a change order request or contract amendment should have been submitted to reflect the additional labor and materials required to complete the work. Systems and processes are being put into place to ensure the submission of change order requests.

③

The items listed in the detail included: materials, the use of an excavator, and dump fees. The majority of the materials were for rock that was placed in a substation which did not have sufficient rock to provide insulation to protect workers from potential electrical shock during a fault condition. The City had determined the safety-based need for additional rock and requested the contractor to provide the services since the contractor was already on site, had the required equipment needed, and the work could be performed under the time and materials section of the contract. All materials were properly invoiced to the City.

④

The excavator equipment was used in multiple situations because it was more efficient than digging with a backhoe. This piece of equipment was not anticipated in the original contract. The use of the excavator equipment by the contractor was documented and verified at the time of the invoice payment.

The dump fees were a result of the City landfill closure since the contractor was required to take the spoils out of the city for disposal. The dump fees were included in the bid prices for only two specific bid items in which the bidders were requested to include these costs in the bid item prices. When the contract was administered as a time and material contract the costs for the dump fees were an additional un-bid cost for which the contractor was entitled to request compensation. All the fees are documented in the invoices submitted by the contractor. Staff did make an error on some dump fees that were charged. There was at least one occurrence where the dump fees were included in the fixed price quotes where the contractor invoiced dump fees separately in the amount of \$8,701 (2.7% of the total project cost). Staff should have worked with Casey to determine the dump fee cost that was included in the contract line item and reduced the payments for the invoiced dump fees by this amount.

Finding 4: The Utilities Department did not appropriately manage its contract with Casey Construction, Inc. to ensure the City's projects were completed in accordance with plans and cost estimates.

Staff agrees that the contract required more diligent management. Construction plans were not well documented, however, the work completed was work that was required to provide services and was reviewed and approved by staff.

Staff has reviewed the roles and responsibilities of staff in both the Utilities Engineering and Operations sections. Engineering will develop the scope of work, request a cost estimate from the contractor, review and approve the work requested of the contractor, and give the authorization to proceed. Operations will review the scope of work, inspect contractor's construction and completion of work scope, review daily timecards, and check invoices against timecards for payment. Operations may also initiate their own requests to the contractor to facilitate their electric, streetlight, and fiber optic maintenance work.

Staff is developing a new tracking system and implementing new documentation procedures to ensure project documents are compiled, organized and readily accessible for review.

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ATTACHMENT 4: Office of the City Auditor’s Comments on the Response from the City Manager

To provide clarity and perspective, we are commenting on selected sections of the City Manager’s Response to our audit. The numbers below correspond to the numbers we placed in the margin of the City Manager’s Response. Relevant sections of the City Manager’s Response are also restated below.

Reference #	City Manager’s Response	Office of the City Auditor Comments
①	<p><i>The 2009 Invitation for Bid (IFB) for trenching was bid as a fixed price plus optional time and material contract in an attempt to control costs. During the first six months of the contract which was awarded to Casey Construction, Utilities staff attempted to use the fixed cost items. However, it became increasingly difficult to manage the contract due to field conditions and project specifications that did not align with the fixed price items. For this reason the decision was made to use time and material pricing which was part of the response to the Bid in the contract.</i></p>	<p>In the first year of the contract, only \$36,564 of the \$236,671 in actual total charges (or \$586,740 in estimated total charges) was based on the contract’s primary bid line items, which were intended to be the main method for pricing all work and were designed using a conservative lump sum or unit price strategy that is financially protective of the City.</p> <p>As stated in the report on page 12, a Casey representative stated that City staff gave Casey assurance to proceed with the contract, despite Casey’s flawed bid, by indicating Casey could use the optional time and materials bid line items to bill the City if Casey believed work was not covered by the primary bid line items.</p>
②	<p><i>At the time of award, Casey Construction’s bid was the lowest, responsive and responsible bid received. A representative from Casey Construction expressed concerns to City staff about the accuracy of their bid. However, in a subsequent telephone conversation, between the owner of the company and the City’s contract manager in charge of the bid, the owner affirmed the company’s bid and their intent to perform the work within the contract terms. The day following this conversation Casey Construction sent a letter to the City’s contract manager confirming the company’s commitment to the bid and the contract terms. With this information, staff deemed the bid submitted by Casey Construction as the lowest, responsive and responsible bid.</i></p>	<p>There were no City records to sufficiently explain how and why Casey decided to proceed with the contract even though it had made a significant error in its bid and was willing to lose a \$71,000 bid bond rather than \$2 million over the three-year contract term as a result of the assumed contract obligations.</p> <p>As discussed in Finding 1, in our opinion, while the City awarded the contract to the lowest bidder, it did not award the contract to the lowest responsible and responsive bidder considering: 1) the significance of the error in Casey’s bid, 2) Casey’s misunderstanding regarding the work, 3) Casey’s initial desire to retract its bid, and 4) the difference between Casey’s bid and the City’s estimate.</p> <p>The Municipal Code states a responsive bidder is a bidder determined by the awarding authority to have submitted a bid that conforms in all material respects to the requirements of the bid documents. It further states that a responsible bidder has the ability, capacity, experience, and skill to perform</p>

Reference #	City Manager’s Response	Office of the City Auditor Comments
		<p>the work, or provide the goods and/or services in accordance with the bid specifications.</p> <p>Handwritten notes in the City’s contract file indicate that shortly after submitting the flawed bid, Casey communicated to the City specifics regarding three line items it was “most concerned about.” Casey’s bid for these line items was significantly lower than other contractors. Two of them were not used at all during the three-year duration of the contract, indicating a significant advantage to Casey in the competitive solicitation process and contract award.</p>
③	<p><i>The audit identified \$144,000 of materials and services that were not included in the contract. Most of these items were needed to complete the jobs assigned to the contractor and are legitimate expenses that the city would have paid to a third party to complete the work. These charges were documented in the invoices from the contractor and approved by staff.</i></p>	<p>As discussed in Finding 3, the contract with Casey did not include any line items to cover 7 percent of total charges (about \$144,000). The Invitation For Bid (IFB) specified that the primary bid line items were to be the main method for pricing all work. The unit prices bid for these line items were supposed to include all labor, materials (except for some line items indicating specified materials provided by the City), equipment, excavation, hauling, and spoil disposal.</p> <p>As discussed in Finding 4, while Utilities Department staff reviewed invoices, staff did not use the contract, quotes, or other documentation of an accepted scope of work in reviewing and approving Casey invoices.</p>
④	<p><i>The City had determined the safety-based need for additional rock and requested the contractor to provide the services since the contractor was already on site, had the required equipment needed, and the work could be performed under the time and materials section of the contract. All materials were properly invoiced to the City.</i></p>	<p>See the Office of the City Auditor Comment above (Reference #3).</p>



FINANCE COMMITTEE

Regular Meeting
Tuesday, November 5, 2013

Chairperson Burt called the meeting to order at 7:00 P.M. in the Council Conference Room at 250 Hamilton Avenue, Palo Alto, California.

Present: Berman, Burt (Chair), Schmid, Shepherd

Absent:

Chair Burt announced that Agenda Item Number 1 would be heard last and Agenda Item Number 3 would be heard first.

3a. (Formerly Agenda Item Number 1) Audit of Contract Oversight: Trenching and the Installation of Electric Substructure.

Houman Boussina, Acting City Auditor reviewed the Utilities Department's \$1.9 million contract with Casey Construction to determine if the Utilities Department effectively managed its contract in accordance with contract terms, the Municipal Code, and relevant policies and procedures. Contracting was an important area that could be high risk if adequate controls were not implemented for all phases of the procurement process. The audit found the City did not appropriately award the contract to Casey Construction because the Utilities Department and the Administrative Services Department (ASD) did not effectively address a significant variance between the City's estimated cost and the selected contractor's flawed bid, which may have resulted in additional costs of approximately \$281,000. In the estimate it was assumed that another contractor would have performed a similar amount of work during the given period of time. While the City awarded the contract to the lowest bidder, it did not award the contract to the lowest responsible and responsive bidder, as defined by the Municipal Code. The Auditor did not feel Staff accurately communicated to the Council why Casey's Construction bid was significantly lower than other submitted bids, including being lower than the City's estimate. Staff attributed the difference between its estimate of contract costs and Casey's Construction bid to be a lack of demand for construction projects. After the City opened bids, Casey Construction realized it made a mistake in the bid. Casey Construction initially wished to retract its bid and was willing to forfeit a

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\$71,000 bid bond. According to Casey Construction, City Staff gave Casey Construction assurance to proceed with the contract by indicating that Casey Construction could utilize optional time-and-material line items. Casey Construction billed the City primarily utilizing those optional bid line items. The primary bid line items were lump-sum or unit-priced items and were intended to be the main method for pricing all work under the contract. The contract was not appropriately reevaluated or renewed. In 2009 the Utilities Department and ASD entered into a one-year contract for \$652,000. The City paid Casey Construction approximately \$1.9 million during the three-year period of August 2009 through August 2012, including approximately \$1.7 million without a valid contract. The City did not formally execute a new contract document for each extension year as required by the contract. There was no evidence that Staff had formally assessed the performance or the contract compliance of Casey Construction. The Utilities Department did not enforce contract billing terms that were the basis for awarding the contract to Casey Construction and the Auditor found significant variances between contract estimates and actual costs. Only 19 percent, or \$365,000 of \$1.9 million was based on the contract's primary bid line items; 74 percent of contract billings was based on the contract's optional bid line items. Staff authorized payment of invoices even though these line items were not intended to be the main method of pricing work. Additionally, Staff authorized payment of seven percent of contract charges for items not identified by any line item in the contract. The Utilities Department did not appropriately manage the contract to ensure the City's projects were completed in accordance with plans and cost estimates. There was no documentation showing quotes were reasonable and consistent with contract terms that were appropriately approved. The Utilities Department's Staff reviewed invoices but the review process did not ensure compliance with contract terms. The Utilities Department did not maintain documentation indicating the billings were consistent with quotes. The Utilities Department did not maintain documentation indicating projects were appropriately inspected and closed out, evidencing approval and completion of planned work. The audit had six recommendations addressed to the Utilities Department and/or ASD. Most recommendations called for implementation of policies and procedures to correct deficiencies noted.

James Keene, City Manager suggested the Finance Committee (Committee) first ask questions of the Auditor.

Chair Burt requested Staff respond to the Auditor's findings and then the Committee would question both the Auditor and Staff.

Lalo Perez, Director of Administrative Services and Chief Financial Officer accepted the recommendations and said formalizing recommendations into

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policies and procedures were appropriate. In accepting proposals, there was a great deal of complexity. Vendor's pricing methods were cyclical and there was a large difference between the lowest bidder and the second lowest bidder. During the time period the contract was awarded, the economy declined and Staff reported bids were 20 to 30 percent lower than Staff estimates. He said the magnitude of the difference between the lowest and second lowest bids was not an issue and an admission of error was a concern that needed to be discussed and resolved. One problem was that ASD did not document discussions with Casey Construction. It was resolved that Casey Construction would honor the bid, which was stated in a memo from Casey Construction. Additional information surfaced regarding the implementation of time and material usage; however, he needed to review the information and determine when that occurred. He felt ASD should have followed up with the Utilities Department. Typically ASD turned the contract over to the Utilities Department for management once the bid was awarded. He agreed with the Auditor's recommendation on that point.

Valerie Fong, Utilities Director reported that the Casey Construction contract was unusual in that it was dependent on services, and actual work performed was not defined in advance. The Utilities Department Staff reviewed other existing contracts and did not find the same procedural gaps. The Utilities Department Staff established new processes for checks and balances to manage requests for work from customers, contractor estimates, contractor performances, and contractor invoicing. In addition, the Utilities Department centralized retention of documents and was increasing Staff. In addition, she met with engineering and operations Staff to impress upon them the importance of contract management. Employee training was implemented with respect to Requests for Proposals (RFP) and project management.

Mr. Keene agreed that the issues were due to awarding and managing contracts. ASD acknowledged that additional elements needed review. He thought this was more of an issue of contract management than contract award. The Auditor's Office indicated a preference for the Purchasing Department within the Utilities Department to exercise more control over the award. The environment for contracts in 2009 and 2010 was unique because of the economy. The Auditor's Office indulged in possibilities of alternatives without basing those alternatives on fact. Staff was not able to refute those possibilities because they did not follow an appropriate accountable process. Staff also failed to manage and document the contract because the contract was awarded on one-time basis and implemented on another basis, which was inexcusable.

Council Member Berman felt Staff needed a policy such that when the lowest

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bid was a certain percentage below the second lowest bid, it was reviewed more closely. If a bidder did not have the expertise to submit an accurate bid, then it did not have the expertise to perform the work. Casey Construction seemed to have problems understanding the project from the beginning, which should have alerted Staff. Staff needed to be more candid about information when asked by Council to approve a contract. He noted Staff's response indicated Staff did review Casey's Construction performance. However, the audit indicated there was no evidence of formal assessment of performance or contract compliance. He inquired whether Staff had any evidence of a review.

Ms. Fong relayed that Staff requested a great deal of work from the contractor and they performed well.

Tom Ting, Electric Engineering Manager reported Staff most likely held a verbal discussion of whether to renew the contract.

Council Member Berman asked if a contract performance review would be written in the future.

Mr. Ting indicated the Utilities Department Staff would work with the Purchasing Department to formalize a process to review a contractor and to ensure they meet all expectations in the future.

Mr. Perez wanted to standardize the review process across the organization with a checklist and a requirement for documentation.

Chair Burt requested an explanation of the contract renewal process.

Mr. Ting did not have any documentation of the process and discussions.

Chair Burt asked the amount of the contract renewal.

Mr. Ting stated the total contract amount was \$1.9 million. The first year of the contract amounted to \$652,000, and the second year was approximately the same amount.

Chair Burt calculated a renewal amount of approximately \$1.3 million.

Mr. Keene added that the contract was paid over a two year period.

Chair Burt inquired about the length of time Staff investigated the contract.

Ms. Fong indicated the audit was conducted over the past few months.

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Chair Burt asked if the problem was brought to the Utilities Department's attention in that same timeframe.

Ms. Fong answered yes.

Chair Burt wanted to understand how the review was performed.

Ms. Fong reported the difficulty was that the Utilities Department Staff involved with the contract had retired or left the City's employ. The Utilities Department Staff contacted former employees, who recalled that a second invitation for bid (IFB) was developed but not issued because of contract terms.

Vice Mayor Shepherd asked if Staff had any documentation.

Mr. Perez explained that the purchase request became the purchase order because the contract was approved by the Council.

Vice Mayor Shepherd inquired whether auditors were able to review the documents.

Mr. Boussina reported that the auditors did not find evidence that there was an effort to formally renew the contract at the anniversary dates.

Vice Mayor Shepherd asked if City files contained any documents.

David Ramberg, Assistant Director of Administrative Services Department said once a department selected a bidder, then they entered a purchase requisition into the Systems, and Applications, Products and Data Processing (SAP). The requisition then moved to the Purchasing Department's work queue, where the Purchasing Department turned the purchase requisition into a purchase order. The purchase order affected the renewal of the contract. Next, the purchase order was printed and placed in the contract file. The Casey Construction contract file included the City Manager Report (CMR), all bid documents leading to the selection of Casey Construction, and renewal documents. The Purchasing Department did not complete a request for a refresh of the bond certificate. Other SAP transactions were completed to produce the purchase order, which effected renewal of the contract based on the Council's authority for three years. The process usually occurred prior to the anniversary of the contract. The months of May and June were extremely busy for Staff in processing these types of documents because many contracts were renewed at the end of the fiscal year.

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Chair Burt noted that Staff suggested the problem occurred because of some Staff leaving the City's employ; while news reports indicated new employees were the cause of that problem. He requested clarification of that point.

Ms. Fong said the engineering person who retired recalled drafting an IFB to rebid the contract and the agreement to honor the original bid. New Staff managed the contract. The Utilities Department continued to have Staff turnover.

Chair Burt asked who handled the contract renewal.

Mr. Ting stated the current Contract Manager was employed at the time of the renewal. The engineering manager who helped the Contract Manager retired.

Chair Burt reiterated that the Contract Manager remained employed with the City while the Engineering Manager who supervised the Contract Manager retired.

Ms. Fong added that Staff on the operations side of the Utilities Department also had some lapses.

Chair Burt inquired whether the project manager knew how the contract was renewed.

Mr. Ting said yes and that Staff typically did not have a single meeting to discuss a contract. Engineering Staff discussed contractors with operations Staff throughout the year to determine if the contractor was performing and if Staff wished to renew a contract.

Chair Burt noted the contractor's quality of performance was good. Staff did not provide an explanation of the decision to move from a fixed-price contract on a project with an undefined scope of work to a time-and-materials contract.

Council Member Berman remarked that the Staff response indicated fixed cost items were utilized during the first six months of the contract. When that method of invoicing became difficult, Staff decided to change to time-and-materials pricing. He recalled a statement that the City used fixed cost and time and materials; he asked if utilizing fixed costs was difficult.

Mr. Ting indicated the prior contract was a time-and-materials contract. As mentioned in the audit, it was difficult to keep a contractor motivated to work on a time-and-materials contract. Staff attempted to utilize a fixed

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price by developing bid items to define generic types of work. He thought the contract would price out many of the bid items. In most cases the contractor priced work as if the work was in a green field installation, meaning there were no other utilities. In a typical project the contractor had a defined scope of work and they priced the work out. The Casey Construction contract was meant to be used as a blanket contract for any project involving customer service, the Capital Improvement Program (CIP), or for emergency and maintenance work. Engineering and Operation Managers were able to call the contractor for a price estimate for some type of work. The difficulty was having Staff request a contractor to provide a price for work performed in different situations. Under the Casey Construction contract and the circumstances, Staff negotiated time-and-materials prices for additional work with Casey Construction.

Chair Burt wanted to know the process for renewing the contract and how the nature changed.

Vice Mayor Shepherd wanted to know when the nature changed.

Council Member Berman noted the basis changed apparently six months into the contract.

Mr. Keene stated the six-month statement was uncertain.

Chair Burt asked when the basis changed.

Mr. Ting reported the basis changed prior to the renewal, during the first year of the contract. As Staff worked with the contractor, they had issues working with fixed bid items.

Ms. Fong indicated those difficulties prompted the former engineering manager to reissue an IFB on a time-and-materials basis. At that point, she understood the contractor agreed to honor its original bid.

Council Member Schmid inquired about ASD's involvement in the contract renewal; they wanted to know what happened once the basis changed.

Mr. Perez explained that in the current process ASD was not involved in contract renewal unless an issue arose.

Council Member Schmid asked if ASD was aware of the change in the contract.

Mr. Perez stated ASD was not informed that there were issues with the

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contract.

Mr. Ting remarked that it was the Utilities Department's responsibility to return to a bid. Time-and-materials pricing was an option within the initial bid. In hindsight, the Utilities Department needed to bid on the contract on a time-and-materials basis.

Mr. Keene reported the Utilities Department acknowledged that someone made a determination not to perform under the conditions of the bid award and to change to a time-and-materials contract. Staff did not comply with the terms of the bid, and the Auditor's point was legitimate. When there were opportunities at renewal to clarify the point, it did not happen.

Ms. Fong added that Staff replaced the contract with a time-and-materials contract.

Council Member Schmid noted a bid line contract was not a fixed contract. The contractor performed a unit of work, but in any project the unit of work was going to be different. Therefore, a bid line contract had flexibility.

Mr. Boussina concurred and said the contract specifically contained unit-priced line items. Unit price contracts are a variation of fixed price contracts. The contract was not a fixed price contract in the sense that there would be a total cost for an entire project.

Chair Burt asked if the bid line contract was a formula for billing the City.

Council Member Schmid inquired whether the contract had flexibility throughout the term of the project.

Mr. Boussina replied yes. The contract accounted for the different types of work. There were many different types of unit prices and many bid line items. Many of these items were unit-price or fixed-price line items because the contract attempted to cover many different types of work.

Council Member Schmid asked if the estimated loss of \$281,000 accounted for variations in the project.

Mr. Boussina reported the estimated \$281,000 assumed that the next bidder would have billed the City in the same way and would have performed the same amount of work in the same period of time. That was the best estimate the Auditor could determine. If the documentation was available, then it would allow the Auditor to redirect all billing performed to retrospectively estimate the cost using unit price line items and the Auditor

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would be able to provide that data to the Committee.

Vice Mayor Shepherd said Staff was trying a new system in an effort to control costs and believed it was typical for the City to have an engineer's estimate. She asked if the contract was the first one between the City and Casey Construction.

Ms. Fong indicated the City had other contracts with Casey Construction.

Vice Mayor Shepherd was unsure whether Staff made a decision not to utilize time-and-materials billings. She inquired about the City's job file and whether inspectors signed off on invoices.

Mr. Perez explained that Staff had two steps for contracts.

Mr. Ting clarified that the document Vice Mayor Shepherd had was not an invoice; it was an estimate from the contractor. Staff provided a contractor with a scope of work and requested an estimate for the work.

Vice Mayor Shepherd did not believe a quote was needed under a contract, and asked how a quote became involved.

Mr. Ting reported the contract was not typical because there was not a fixed scope of work. The contract was used for several different projects as they arose.

Vice Mayor Shepherd noted the report did not contain a copy of the contract.

Chair Burt asked if Staff received a quote for each project based upon the formula in the bid, even if the contract was properly handled under the bid line scenario.

Ms. Fong responded yes. If Staff had a better defined list of bid items, they could have used the bid items in that way.

Chair Burt inquired whether the contractor would have provided a quote for each project.

Vice Mayor Shepherd added that a contract had phases and dates.

Chair Burt explained that Staff provided the volume of work and said the contractor bid was based on a metric system as a means of rating. The quote needed to be articulated in a way that was consistent with the fixed bid. He asked if his explanation was accurate.

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Mr. Boussina answered yes and said he understood that projects were not defined at the beginning of the contract. He added that the contract specified a process of submitting quotes and receiving approval.

Vice Mayor Shepherd inquired whether Staff had an invoice to match the quote. She also asked if Staff received invoices prior to issuing payment.

Mr. Boussina responded yes and said finding four indicated the Auditor was not able to match the work performed with approved quotes and added that a much higher level of detailed controls was needed, especially for a time-and-materials contract.

David Yuan, Contract Manager for Utilities reported that a sample bill reflected the work order, the street address of the work, the time cards of contractor employees, and the billing hours charged. Throughout the contract, Staff received more than 200 work orders. Staff had documents and time cards for each work order.

Mr. Ting explained that each engineer utilizing the contract had their own job file and each estimator could have his own job file. Staff changed the process such that the Contract Manager would have one centralized file.

Mr. Perez indicated that the Utilities Department deemed an invoice ready for payment and entered it into SAP. SAP determined whether the contract was valid and whether funds were available to pay the invoice; then Staff paid the invoice.

Vice Mayor Shepherd felt Staff should have a quote for each invoice.

Mr. Perez stated that the accounts payable division did not have a copy of the contract. The Utilities Department and ASD each needed a copy of the contract. He expected the Utilities Department to determine whether the invoice complied with the contract and was ready for payment.

Vice Mayor Shepherd felt it was important for the Utilities Department to approve the invoice.

Mr. Yuan added that the IFB contained 69 line items. Forty-three line items were fixed price, and the remaining 26 line items were time and materials. It was a hybrid contract.

Chair Burt inquired whether the fixed bid line items totaled 90 percent of the dollar amount.

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Mr. Boussina answered yes.

Mr. Yuan explained that the contract allowed for both fixed and time-and-materials items.

Chair Burt requested that the Auditor explain his contention regarding the 90 percent of funds being paid for with fixed bid line items, even though the number of line items was 70 percent.

Mr. Boussina reported the IFB document clearly stated bid items 1-43 were the primary method of pricing all work as a result of the bid. The bid was constructed with estimates in terms of linear foot and how much work the City wanted. The estimates for fixed price line items were multiplied by the bid submitted.

Mr. Keene asked if he meant for all bidders.

Mr. Boussina replied yes. He stated that time-and-materials line items based on one hour resulted in a minimal effect on the total amount of the bid.

Chair Burt inquired whether 90 percent of bid funds were expended for fixed line bids, even though 30 percent of the line items were time-and-materials bids.

Mr. Ting noted the time-and-materials items were meant to enhance fixed line items.

Chair Burt did not believe the percentage of line items related to time and materials was relevant. From a dollar standpoint, 90 percent of funds paid for fixed line items. The contract estimated the number of total feet for the year. If the estimation of feet was different, then the amount charged increased or decreased. The original Staff cost estimate was \$1 million, and \$800,000 was the amount presented to the Council. He asked what caused the estimate to change because he suspected the change in the estimated cost was related to the estimated amount of work, as opposed to the dollars per metric.

Mr. Ting explained that the original \$1 million estimate was based on historical expenditures. Between releasing the bid and preparing the CMR for the Council, there was a change in the amount of work.

Mr. Perez reported Staff should have told the Council the contract was bid at

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\$1 million, but Staff expected to expend only \$800,000 based on activity.

Ms. Fong recalled Staff instituted different contract management practices wherein anyone who requested payment had to double check the invoice against the contract.

Mr. Ting indicated the Utilities Department Staff worked with engineers to ensure they were familiar with contracts, bid items, and time-and-material items. When engineers requested an estimate from the contractor, they checked it against the contract for accuracy. The City now paid the actual cost of doing the work.

Vice Mayor Shepherd inquired whether Staff audited current contracts and whether any contracts were noncompliant in accordance to the manner they were presented to the Council for approval.

Mr. Ting answered no.

Chair Burt asked if Staff reviewed current contracts.

Mr. Ting replied yes, Staff began to review all projects.

Vice Mayor Shepherd asked if all contracts were compliant with CMRs.

Mr. Keene asked if Vice Mayor Shepherd was referring to all Utilities contracts approved by the Council.

Vice Mayor Shepherd noted the Council approved a CMR with a contract, and inquired about the number of active contracts.

Ms. Fong reported Utilities had approximately 200 active contracts.

Chair Burt stated the Casey Construction contract was an irregularity; he asked how many other fixed-line bid contracts were in existence and whether Staff reviewed them.

Mr. Yuan indicated the Casey Construction contract was the only fixed line bid contract with a time-and-materials option.

Vice Mayor Shepherd explained that typically all contractors had a time-and-materials item at the bottom of fixed-bid contracts to capture miscellaneous items. She wondered whether Staff reviewed all active contracts and determined that contracts functioned in the manner they were presented to the Council for approval through the CMR process.

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Mr. Yuan remarked that Staff reviewed all construction contracts, not all contracts.

Ms. Fong added that the Utilities Department also had commodities contracts and energy efficiency contracts.

Mr. Keene explained that the Casey Construction contract was bid as a fixed-bid contract. The audit and Staff's response made it clear that the contract was not executed as a fixed-bid contract. The contract was paid as a time-and-materials contract over a three-year period for a total of approximately \$1.9 million. The initial question was whether the change to a time-and-materials contract was fair to other bidders. The second question was whether the City received real value and whether the contractor delivered on the work performed.

Council Member Berman referenced the handwritten note, "ok to pay," on the invoice provided as a sample and inquired about the process for determining whether the invoice was acceptable and whether there was documentation to support that acceptance.

Mr. Ting reported that the engineer project manager received the invoice, checked it against the scope of work, and reviewed it with operations. The operations supervisor ensured that the work was performed and that inspectors checked the work and the invoice against contractor time cards. The Operations Department signed off on it and returned it to engineering to review the invoice against the scope of work and the quote.

Council Member Berman asked if Staff had a paper trail of those steps.

Mr. Ting indicated operations had a paper trail and engineering had another. The Utilities Department did not have a central location for all drawings, scopes of works, estimates, and invoices at that time.

Vice Mayor Shepherd asked if Staff now had paperwork to support each line item in an invoice.

Mr. Ting stated the invoice should have the service order attached to it. The service order package needed to have associated drawings and the scope of work attached to it.

Council Member Schmid asked if the projects were all development projects.

Mr. Ting reported the majority were customer service projects. Other

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projects involved maintenance and CIP projects.

Council Member Schmid indicated a good number of projects were paid by developers who had the option of performing the work themselves or having the City perform it. Developers placed confidence in the City to operate at an efficient and effective level.

Chair Burt recalled that prior to the financial crisis, the City had a consistent pattern of receiving bids higher than City estimates. After the financial crisis began, the pattern changed to bids being significantly lower than City estimates. The Council discussed whether to take advantage of the lower bids in order to accelerate projects. A very low bid was a cause for further scrutiny to ensure contractors did not make up the low bid over the course of the contract. He asked how the City lost approximately \$281,000, when the bid was so much lower than other bids.

Mr. Boussina explained Casey Construction admitted they made a mistake in the bid.

Vice Mayor Shepherd understood the timing of the Casey Construction admission bid was different.

Mr. Perez clarified that Casey Construction made the admission prior to the contract being awarded.

Mr. Keene asked if Staff knew why Casey Construction made the admission.

Mr. Boussina stated that notes indicated Casey Construction misunderstood certain line items. In one instance, Casey Construction thought the City was building a parking lot; the bid was below estimates because of certain line items.

Mr. Keene inquired whether Casey Construction had knowledge of the other bids when it made the admission.

Mr. Boussina presumed Casey Construction did not because they learned that they made a mistake when the bids were opened and their bid was significantly less than other bids.

Mr. Keene needed to know how Casey's Construction was informed to think they made a mistake and how that determined whether Staff should have rejected the bid.

Chair Burt requested an explanation of the additional cost of \$281,000 once

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Casey Construction agreed to honor its bid.

Mr. Boussina explained that the analysis was retrospective, meaning they used line items that Casey Construction chose to bill the City with because they billed the City using line items that were more expensive than the second lowest bidder. Casey Construction was minimal in using, or did not use line items that were significantly below the second bidder.

Mr. Keene took issue with this part of the audit because it involved estimation. The analysis presumed that the second bidder would have remained static in the same environment. He said the second bidder could have utilized different pricing if they had won the bid.

Chair Burt inquired whether Casey's Construction bid could have resulted in up to \$281,000, as the Auditor did not know what the other bidders would have invoiced.

Mr. Boussina agreed and said if Casey Construction had billed the City based on unit price items, the result would have been different. The \$281,000 was the best estimate he could provide given the available information.

Council Member Schmid inquired whether the Committee was ready to proceed to suggested actions.

Vice Mayor Shepherd asked if the Committee should discuss each finding.

Chair Burt responded yes.

Vice Mayor Shepherd asked if the Committee would then discuss the City Manager's Action Plan.

Chair Burt inquired about the best way to discuss those topics.

Mr. Boussina said the narrative response contained a great deal of background information.

Council Member Berman inquired about the process for follow-up discussion regarding implementation of the City Manager's Action Plan.

Chair Burt explained that typically the Committee only discussed items that either the Auditor or the Committee had specific issues with.

Mr. Perez discussed Finding 1.1, which says: "Auditor Recommendation: The Utilities Department and ASD should implement policies and procedures

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to appropriately address significant variances between City estimates and contractor bids before awarding contracts, in order to ensure staff awards contracts to the lowest responsible and responsive bidder, as required by the Municipal Code. City Manager's Action Plan: When there are significant differences between the lowest bid and staff estimates or other bids, City Staff will set up a meeting with the lowest bidder to ensure that its bid is correct, that it can perform the work as described, and to ensure compliance with Municipal Code 2.30.440. Staff will document this discussion with the bidder to include: 1) date of the meeting; 2) attendees at the meeting; 3) description of the questions related to the bidders' submittals; 4) summary of the discussion; 5) staff and contractor agreement/resolution of questions; and 6) next steps." Staff was not aware of a specific percentage to utilize when monitoring the difference between the lowest and second lowest bids. He asked if the Auditor was aware of a standard percentage.

Mr. Boussina replied no. He was aware of various procedures and flow charts.

Mr. Perez said he would inquire further regarding a standard percentage. Different rules applied for different types of contracts.

Council Member Berman requested clarification of that statement.

Mr. Perez planned on developing a standard and presenting Staff's actions to the Committee. In construction contracts, a self-check mechanism was the ability to file a protest. The Municipal Code provided a process for protests that led to the City Council.

Council Member Berman asked who filed a protest.

Mr. Perez responded other bidders. A protest had to be filed within seven days with the Purchasing Manager, and the Purchasing Manager provided a response. If bidders disagreed with the Purchasing Manager's response, then the protest moved to him within ten days of the Purchasing Manager's response. He then reviewed and responded to the protest. If bidders disagreed with his response, then the protest was presented to the Council.

Council Member Berman did not recommend relying on the market to determine the decision of a responsible bid.

Mr. Perez wanted to implement a formal process. In addition to the proposed next steps, Staff was implementing an independent review by a firm that specialized in best practices for purchasing. During the Budget process, Staff eliminated funding for training programs regarding contract

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project management. Training needed to be reinstated, and Staff requested resources to implement those processes.

Council Member Schmid noted issues were raised with respect to bids in at least three projects. Creating a standard was going to be difficult.

Mr. Perez added that contractors admitted to making mistakes in bids, and those mistakes cost the contractors. The contractors hoped to make up the loss on the next project.

Council Member Berman felt Casey Construction did not agree to accept a loss on the contract.

Chair Burt was unsure whether the Committee heard the whole scenario.

Mr. Perez indicated Staff did not have documentation to demonstrate whether or not Casey Construction agreed to accept a loss. Staff needed to formalize steps for contractor discussions.

Council Member Schmid inquired whether ASD accepted responsibility for Finding 1.

Mr. Perez answered yes.

Mr. Keene added that ASD would establish criteria to signal problems that needed to be investigated to ensure the City received a responsible bid.

Mr. Perez reported Staff would establish a threshold for elevating concerns to him, and then he would refer potential problems to the City Attorney or the City Manager. That process was currently in place; however, it was not a formal process.

Vice Mayor Shepherd discussed Finding 1.2 "Auditor Recommendation: The Utilities Department and ASD should ensure the accuracy of key information stated in staff reports submitted to City Council, including those which request authorization for the award of contracts. City Manager's Action Plan: The Utilities Department prepares the staff report based on the most current information that is available including notation of any changes of staff estimates. ASD reviews staff reports requesting award of Utility contracts. As part of this review ASD validates the summary of solicitation information. ASD will continue to perform this function and will put an extra emphasis as a result of this finding to match key figures in the solicitation summary to the actual solicitation documents." Having the engineer's estimate, bids and Staff comments were useful to the Council in discussing

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the awarding of bids. She inquired whether Staff routinely provided that information to the Council.

Mr. Perez reported Staff's goal was to provide all information to the Council. At times information was omitted because of Staff turnover or lack of training. The key was to emphasize that detail in training.

Vice Mayor Shepherd suggested Council Members request the information if it was not provided.

Ms. Fong noted that the City Attorney Staff reviewed most of Staff's memoranda. The City Manager read the information and requested additional information, clarification, or revisions. She also read the information and requested clarification or revisions. Utilities Staff wanted to be transparent.

Council Member Schmid noted contracts were usually presented on the Consent Calendar and inquired whether the Auditor was satisfied with the Council's oversight of awarding contracts.

Chair Burt did not believe that was a fair question for the Auditor as it was a policy decision. The Council made the decision whether to remove an Item from the Consent Calendar.

Council Member Schmid asked the Auditor whether during the audit he was satisfied with the process of Council oversight.

Mr. Boussina was not able to comment on the Council's processes. It was difficult for the Council to recognize all challenges and pitfalls of a contract. In this particular audit, he felt the Staff Report was not accurate and transparent in order to provide the Council with an opportunity to raise concerns about the contract.

Molly Stump, City Attorney explained that City Attorney Staff was in the queue to review all CMR's with respect to legal issues, enforceability, and compliance with laws. She did not wish to give the impression that the Attorney's Office reviewed factual matters presented by a department. City Attorney Staff relied on other Staff in the work process for review of certain items.

Mr. Perez noted an online system directed CMR's to the City Attorney for review. Purchasing was not a mandatory reviewer. The departments needed to designate Purchasing as part of the review of a contract.

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Mr. Perez discussed Finding 1.3 "Auditor Recommendation: ASD should prioritize implementing a system to electronically record and track vendor bids as part of any future system implementation for ASD Purchasing. City Manager's Action Plan: Staff is in the early phase of reviewing online bid options and will issue a request for proposal for such a service." He agreed with the Finding. The Chief Information Officer was a member of the Task Force and identified additional tools for the bid process.

Vice Mayor Shepherd asked how Staff would reconcile the finding of a weak scope of services.

Mr. Perez indicated that was a difficult challenge. For the most part, ASD relied on technical experts to prepare the scope of service for a contract.

Mr. Perez discussed Finding 2.4 "Auditor Recommendation: The Utilities Department and ASD should review existing policies, implement new policies, and develop procedures to ensure the City's contracts are appropriately re-evaluated and renewed in accordance with applicable contract terms and the Municipal Code. City Manager's Action Plan: Policies and procedures will be reviewed, revised, and implemented to evaluate contractor work every 12 months, at a minimum. This may include periodic meetings with the contractor during the year to discuss issues with performance, contract compliance, or invoicing. The evaluation criteria shall include: 1) Performance; 2) Compliance with the contract; 3) Responsiveness to work scheduling; 4) Accuracy of estimates; 5) Accuracy of invoicing; and 6) Responsiveness to City issues. ASD staff will create a contract monitoring checklist to aid in regular contract administration. The checklist will prompt for review of contract terms, contractor deliverables, project milestones, payments, and overall performance. The information collected via the checklist will aid in performance review when contract renewal is sought." Staff said they would create a monitoring checklist and sets of criteria for contracts.

Council Member Berman recommended Staff emphasize contract compliance. He noted that the contractor's performance may have been good; however, the contract was obsolete at the moment the basis changed to time and materials. The contract did not need to be renewed because it was not the contract approved by the Council. Performance did not overshadow contract compliance.

Ms. Fong said she would more closely monitor compliance.

Chair Burt inquired whether that was adequately captured in the Action Plan.

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Mr. Perez said he could expand the definition of Contract Compliance.

Mr. Keene explained that Staff would return to the Committee to provide an update regarding implementation of the Action Plan. There were opportunities for additional follow-up discussions.

Mr. Perez reported that this step would accomplish the accountability process.

Ms. Fong discussed Finding 3.5 "Auditor Recommendation: The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts. Procedures should address the following areas: 1) Monitoring of contractor billings to ensure, 2) accuracy and compliance with contract terms, and 3) Ensuring contracts are appropriately and timely modified, if required. City Manager's Action Plan: Utilities staff is formalizing the process by which work is requested of the contractor, approved, inspected, reviewed for completion, and invoices reviewed and approved for payment including: 1) Roles and Responsibilities for Substructure Contract; and 2) Flow Chart Diagram. Utilities is in the process of hiring a Coordinator Utilities Project to assist Engineering in administering contracts, verifying invoices and processing payments. Utilities will be requesting similar positions in Operations and Customer Support Services in the 2014 mid-year budget. Utilities will also develop a tracking mechanism to monitor contractor work, reconcile invoices, and verify payments which includes: 1) Service Order number; 2) Scope of work and link to project as-built drawings; 3) Contractor work estimates; 4) Project change orders and explanations; 5) Invoices and payments; 6) Explanations for estimate/actual cost variances; 7) Name of project engineer; 8) Name of project inspector; 9) Name of contractor crew foreman; 10) Comments on project issues or contractor; and 11) Performance. ASD will conduct a review of the entire purchasing process citywide to review current best practices and lay out a plan for improvement to align with current best practices where needed. This review may include a third party. The departments will collaborate to bring contract management training to appropriate staff. This training will be rolled out to all departments." She also discussed Finding 4.6 "Auditor Recommendation: The Utilities Department should work with ASD to review existing contract performance management policies and develop procedures to ensure staff appropriately administers the City's contracts. Procedures should address the following areas: 1) Roles and responsibilities for the Contract Administrator and any additional training requirements for staff; 2) Monitoring of contractor performance; 3) Ensuring payments are made only for services and materials included in the contract scope; and 4) Ensuring there is an adequate process and documentation to show planned work has

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been completed. City Manager's Action Plan: Recommendation 5 & 6 are similar. See response to recommendation 5." She did not believe the Auditor took issue with some of the proposed steps. Utilities Staff was formalizing a process and determining the roles and responsibilities with respect to implementation of contract terms. She was in the process of hiring a Contract Utilities Administrator, identifying contract administration positions in operations and customer support service areas and developing better tracking mechanisms to monitor contractor work. She was developing procedures to explain cost variances and to document discussions with contractors.

Council Member Schmid asked if Staff would have a centralized file for records.

Ms. Fong reported Utilities Staff would maintain complete files for projects and the Purchasing Department would maintain invoices and payments.

Mr. Perez was reviewing the need for a resource to perform spot checks. Staff was exploring the cost of additional controls and would provide a recommendation.

Council Member Schmid inquired whether the City Manager could obtain documents from departments to answer any questions he might have.

Mr. Perez wanted to ensure all departments maintained centralized files so that records were available. Training would teach Staff which documents should be retained in a file.

Council Member Schmid asked if ASD would be responsible for departments reaching the same standards as those being implemented for the Utilities Department.

Mr. Keene indicated the Task Force was designed to respond to problems across the organization. Staff wanted an integrated online system that would allow ASD to view Utilities files. Until a system was identified and implemented, Staff would develop practices to routinize the channels and connections.

Vice Mayor Shepherd was happy to see the changes. If systems and operations worked smoothly, the time between approval and payment of invoices was expected to be short. She inquired whether the Purchasing Department would have the authority to return invoices to departments.

Mr. Perez answered no. The Purchasing Department did not have

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information to determine whether an invoice was appropriate for payment.

Ms. Fong reported the Utilities Department would have the responsibility of ensuring invoices were accurate.

Vice Mayor Shepherd felt there was a needed to be a process for the Purchasing Department to validate whether or not an invoice was accurate.

Mr. Perez indicated the Purchasing Department would not know if the invoice complied with the contract terms.

Ms. Fong reiterated that Utilities was responsible for contract compliance.

Vice Mayor Shepherd asked if there was an initialing system to indicate an invoice was approved and checked against the contract.

Ms. Fong replied yes.

Mr. Perez agreed that Purchasing could check for initialing.

Mr. Keene reported quality control was the department's responsibility.

Ms. Fong remarked that ASD had to rely on the experts for development of a scope of service. Utilities Staff was improving with respect to development of scopes of service.

Mr. Keene did not want anyone with oversight responsibility to feel they were disempowered from asking questions. Staff expected to discuss aspects of contracts, bids, invoices and such.

Mr. Perez indicated ASD had an oversight role and fulfilled it.

Vice Mayor Shepherd wanted invoices approved in such a manner that Staff knew who approved it.

MOTION: Council Member Schmid moved, seconded by Chair Burt to recommend the City Council accept the Contract Oversight Audit: Trenching and Electric Substructure.

Chair Burt felt Staff's responses were significant. He said implementation of those policies and procedures would provide better systems.

MOTION PASSED: 4-0