



Legislation Details (With Text)

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On agenda: 11/15/2022 **Final action:**

Title: Consideration of Accepting as Complete Work Performed by Hot Line Construction Regarding Underground Utility Assessment Districts 19-12 and 19-14 (Public Works Director Lee).

A) ACCEPT
B) AUTHORIZE

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
11/15/2022	1	City Council Regular Meeting		

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Erick Lee, Public Works Director
Katherine Doherty, City Engineer
Jeff Fijalka, Senior Civil Engineer

SUBJECT:

Consideration of Accepting as Complete Work Performed by Hot Line Construction Regarding Underground Utility Assessment Districts 19-12 and 19-14 (Public Works Director Lee).

- A) **ACCEPT**
B) **AUTHORIZE**

RECOMMENDATION:

Staff recommends that the City Council:

A) Underground Utility Assessment District (UUAD) 19-12

- 1) Formally Accept as Complete the Hot Line Construction Contracts.
- 2) Authorize the Filing of the Notice of Completion with the County Recorder.
- 3) Release the Retention of \$65,775.04.

B) UUAD 19-14

- 1) Formally Accept as Complete the Hot Line Construction Contracts.
- 2) Authorize the Filing of the Notice of Completion with the County Recorder.
- 3) Release the Retention of \$84,581.79.

FISCAL IMPLICATIONS:

District 19-12

City Council authorized a total budget of \$1,509,526 for Hot Line Construction's work on Underground Utility Assessment District 19-12. The total construction costs associated with Hot Line on District 19-12 totaled \$1,315,500.77. Subsequent to the acceptance and filing of Notice of Completion, the retention amount of \$65,775.04 will be released to the contractor.

District 19-14

City Council authorized a total budget of \$1,906,105 for Hot Line Construction's work on Underground Utility Assessment District 19-14. The total construction costs associated with Hot Line on District 19-14 totaled to \$1,691,635.80. Subsequent to the acceptance and filing of Notice of Completion, the retention amount of \$84,581.79 will be released to the contractor.

Unexpended project contingency funds for both districts will remain available to address unforeseen issues that may arise prior to the removal of all overhead facilities and utility poles from Districts 19-12 and 19-14. After the completion of all overhead wire and pole removal, any remaining construction funds will be refunded to the individual property owners within each district.

BACKGROUND:

In May 2019, Southern California Edison (SCE) solicited competitive bids from their list of prequalified contractors for construction of UUADs 19-12 and 19-14, both located in North Manhattan Beach. Because the projects were designed for all utilities to be placed in a joint trench, the bids received by SCE included the construction costs for all utilities that would share the trench: SCE, Frontier, and Charter. Hot Line was identified as the lowest responsible bidder for both districts. Hot Line's bids to SCE, Frontier, and Charter were forwarded, with overhead fees, to the City for inclusion in the Assessment Engineer's Report for each district. The total district costs for UUADs 19-12 and 19-14 were then apportioned out and presented to property owners. Voting to form the districts commenced in August 2019.

On October 1, 2019, a Proposition 218 hearing was conducted to count ballots for UUADs 19-12 and 19-14 in consideration of forming underground utility assessment districts. The votes tallied from both districts showed majority support (62% and 64% respectively) for undergrounding, and City Council subsequently adopted resolutions forming UUADs 19-12 and 19-14. In December 2019, following the 30-day cash collection and sale of bonds for the remaining assessment balances, SCE, Frontier, and Charter were paid in full for their respective portions of the undergrounding projects. Shortly thereafter, both SCE and Charter executed agreements with Hot Line, with an anticipated construction start date of January 2020. However, Frontier did not execute a construction agreement with Hot Line.

In February 2020, City staff learned that Frontier was preparing to file for bankruptcy and that execution of Frontier's construction contract with Hot Line for UUADs 19-12 and 19-14 would be delayed indefinitely. On April 15, 2020, Frontier filed for Chapter 11 bankruptcy. Because the projects were designed with joint trenching, the projects could not proceed without the full participation of all three utility companies. Additionally, because SCE and Charter had already executed construction agreements with Hot Line, it became clear that the City's Public Works Department would need to

assume Frontier's portion of the work for UUAD 19-12 and 19-14 in order for construction in both districts to proceed. Staff immediately began working with Frontier to obtain reimbursement of the funds the City paid for both districts, inclusive of both construction and cabling costs. Full reimbursements for UUADs 19-12 and 19-14 were subsequently received on March 18, 2020.

Realizing that assessments had already been levied at fixed rates, staff reached out to Hot Line and began negotiations to assume Frontier's portion of the work at the same bid price that Hot Line had provided Frontier. Hot Line was agreeable to this arrangement and provided the City with the quote it had given Frontier. However, the requirement to pay prevailing wage applies to governmental agencies, not to private companies such as Frontier. Thus, the bid provided by Hot Line to Frontier was not at prevailing wage rates. Accordingly, staff requested that Hot Line adjust its costs to include standard prevailing wage rates so that the City could award a contract in compliance with Labor Code requirements. The City also ensured that Hot Line paid prevailing wage rates for work on the Charter and SCE portions of the projects. Additional funds were needed to cover the difference between the original bid and increased costs due to prevailing wage rates, for both districts. SCE agreed to amend its contract with Hot Line to cover that additional cost increase and provided an invoice to the City for the difference. Charter indicated that reissuing or amending its contract with Hot Line would prove to be extremely cumbersome (taking six months or more). Instead, Charter requested to enter into tri-party agreements with Hot Line and the City to cover the difference between the bid rates and the prevailing wage rates for UUADs 19-12 and 19-14.

On June 23, 2020, the City Council awarded construction agreements to Hot Line Construction for Districts 19-12 and 19-14 in the amounts of \$1,177,327 and \$1,472,923, respectively, for construction of the Frontier facilities. On that same date, the Council approved two tri-party agreements with Hot Line and Charter for Districts 19-12 and 19-14 in the amounts of \$93,730 and \$84,766, respectively, to cover the prevailing wage costs for the Charter portion of the work in each district.

DISCUSSION:

District 19-12

Construction of Underground Utility Assessment District 19-12 began on October 5, 2020, and was completed on August 3, 2021, for the beneficial use of SCE, Frontier, and Charter. The remaining "punchlist" items were recently fulfilled by the contractor to the City's satisfaction.

Two change orders (Contract Change Order Nos. 1 and 2) were necessary for the Frontier portion of the work constructed by Hot Line in District 19-12. Contract Change Order No. 1 included adjustments to final bid quantities, epoxy coating on dowels used for roadway restoration, intercepting existing underground Frontier connections, and additional trenching at 45th Street and The Strand to facilitate the removal of an additional utility pole. Contract Change Order No. 2 included additional work to relocate conduits due to changes in field conditions between the preparation of the design drawings and the underground utility installation. The combined value of Change Order Nos. 1 and 2 was \$44,416.85.

Prevailing wage costs for the work in District 19-12 performed by Hot Line on behalf of Charter exceeded the original Hot Line estimate by \$29.98. Charter agreed to allow the City to pay these additional charges directly to Hot Line, resulting in a total of \$93,759.98 paid to Hot Line in conjunction with the tri-party prevailing wage agreement.

The original Hot Line contract budget and expenditure summary is as follows:

Contract Budget for Agreements with Hot Line

\$1,177,327.00	Original Contract Award for Frontier Scope
\$ 93,730.00	Original Agreement with Hot Line/Charter
\$ 238,469.00	<u>Authorized Contingency</u>
\$1,509,526.00	Total Combined Hot Line Contract Budget (UOAD19-12)

Contract Expenditures for Agreements with Hot Line

\$1,221,741.39	Contract Expenditures for Frontier Scope
\$ 93,759.38	<u>Contract Expenditures for Agreement with Hot Line/Charter</u>
\$1,315,500.77	Final Combined Hot Line Contract Cost (UOAD19-12)

Hot Line Construction satisfactorily completed all work for a total construction cost of \$1,315,500.77 and is now requesting formal acceptance of the project. The five percent retention (\$65,775.04) will be released 35 days after recordation of the Notice of Completion with the County Recorder. All work inspected by the Public Works Department has been found in conformance with the plans and specifications and of good quality.

District 19-14

Construction of Underground Utility Assessment District 19-14 began on October 5, 2020, and was completed on November 12, 2021, for the beneficial use of SCE, Frontier, and Charter. The remaining "punchlist" items were recently fulfilled by the contractor to the City's satisfaction.

One change order was necessary for the Frontier portion of the work constructed by Hot Line in District 19-14. Contract Change Order No. 1 included adjustments to final bid quantities, epoxy coating on dowels used for roadway restoration, intercepting existing underground Frontier connections, additional roadway restorations, conduit and vent relocation, and additional trenching and conduit necessary to extend underground service to the lifeguard building at Rosecrans and The Strand. The total value of Change Order No. 1 was \$133,211.76.

Prevailing wage costs for the work in District 19-14 performed by Hot Line on behalf of Charter exceeded the original Hot Line estimate by \$736.11. Charter agreed to allow the City to pay these additional charges directly to Hot Line, resulting in a total of \$85,502.11 paid to Hot Line in conjunction with the tri-party prevailing wage agreement.

The original Hot Line contract budget and expenditure summary is as follows:

Contract Budget for Agreements with Hot Line

\$1,472,923.00	Original Contract Award for Frontier Scope
\$ 84,766.00	Original Agreement with Hot Line/Charter
\$ 348,416.00	<u>Authorized Contingency</u>
\$1,906,105.00	Total Combined Hot Line Contract Budget (UOAD19-14)

Contract Expenditures for Agreements with Hot Line

\$1,606,134.46	Contract Expenditures for Frontier Scope
\$ 85,501.34	<u>Contract Expenditures for Agreement with Hot Line/Charter</u>
\$1,691,635.80	Final Combined Hot Line Contract Cost (UOAD19-14)

Hot Line Construction satisfactorily completed all work for a total construction cost of \$1,691,635.80

and is now requesting formal acceptance of the project. The five percent retention (\$84,581.79) will be released 35 days after recordation of the Notice of Completion with the County Recorder. All work inspected by the Public Works Department has been found in conformance with the plans and specifications and of good quality.

PUBLIC OUTREACH:

Prior to the start of construction, signage was installed along Highland Avenue and Ocean Drive to notify the public of the project. The signage remained in place throughout construction. In addition, a notice announcing the start of construction was mailed to each District 19-12 and District 19-14 property owner and to all residents north of Rosecrans on both sides of Highland Avenue. A list of road closures and construction impacts was posted to the UUAD page on the City's website and updated regularly throughout construction. Work notification was also coordinated with the City of El Segundo.

ENVIRONMENTAL REVIEW:

The City reviewed the projects for compliance with the California Environmental Quality Act (CEQA) and determined that the projects qualify for a Categorical Exemption pursuant to Sections 15302(d) and 15303(d) (Conversion of overhead electric utility distribution system facilities to underground, and conversion of existing small structures to small new equipment and facilities in small structures) of the State CEQA Guidelines. A Notice of Exemption was filed with the Los Angeles County Clerk's Office for the project.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.