

Council Meeting
March 6, 2007

Honorable Mayor and Members
 of the Torrance City Council
 City Hall
 Torrance, California

Members of the Council:

Subject: General Services – Award of contract for soil remediation at Fleet Services garage and approve an appropriation of funds. Expenditure: \$ 86,135

RECOMMENDATION:

The General Services Director recommends City Council:

- 1) Award a contract to Miller Environmental for soil remediation at the Fleet Services garage for \$74,900 with a 5% contingency of \$3,745; and a 10% project management fee of \$7,490.
- 2) Appropriate \$ 32,521.95 from the Fleet Services Shop Equipment Replacement Fund.

FUNDING Funding available in FEAP #537- Soil Removal Project, FEAP #536- Installation of New Hoists, and the Fleet Services Shop Equipment Replacement Fund.

BACKGROUND/ ANALYSIS

During the end of 2005, two (2) of the heavy-duty vehicle hoists located in the Fleet Services Garage were found to be leaking hydraulic oil. These hoists, originally installed when the building was constructed in the mid 1980's were ultimately deemed beyond economical repair. Therefore on February 6, 2007, City Council approved a contract award to Petersen Hydraulics for \$381,000 with a 5% contingency of \$19,050 for installation and purchase of two new hoists. These hoists are housed in self-contained, sealed enclosures that are designed to capture any possible leakage.

Soil testing was performed on the soil beneath the old hoists due to the leaking hydraulic oil. The test results confirmed the soil will need to be removed prior to the installation of the new hoists.

Staff formally bid the soil remediation project (B2007-02) and received the following two bids:

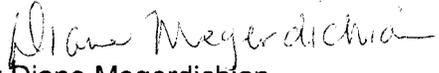
Miller Environmental	\$ 74,900
Fleming Environmental, Inc.	\$ 77,800

The soil remediation bids are in line with the initial project estimate of \$70,000 excluding contingency and project management fees. Both the hoist replacement and soil remediation project are funded from FEAP 536. After award of the hoist replacement for 381,000 plus an additional 19,050 for contingency for that portion of the work, only 37,781.25 remains for soil remediation efforts. An additional 32,521.95 is required to move forward with required work. The additional funding is available in the Fleet Services Shop Equipment Replacement Fund.

The General Services Director recommends City Council award a contract to Miller Environmental Inc for \$74,900 with a 5% contingency and appropriate of \$32,521.95 from the Fleet Services Shop Equipment Fund.

Respectfully submitted,

SHERYL BALLEW
General Services Director


By Diane Megerdichian
Business Manager

CONCUR:


Sheryl Ballew
General Services Director


LeRoy J. Jackson
City Manager

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of Date of Council approval, March 6, 2007 ("Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Miller Environmental Inc., a California Corporation ("CONTRACTOR").

RECITALS:

- A. The CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide soil remediation, disposal and backfill at Fleet Services.
- B. In order to obtain the desired services, The CITY has circulated its Bid for Soil Excavation, Disposal and Backfill at Fleet Services, BID B2007-02.
- C. CONTRACTOR has submitted a Bid Proposal (the "Proposal") in response to the BID. In its Bid CONTRACTOR represents that it is qualified to perform those services requested in the BID. Based upon its review of all proposals submitted in response to the BID, The CITY is willing to award the contract to CONTRACTOR.

AGREEMENT:

- 1. **SERVICES TO BE PERFORMED BY CONTRACTOR**
CONTRACTOR will provide the services and install those materials listed in the Plans and Specifications, which are on file in the General Service Department. The NIB, Plans and Specifications are incorporated herein by reference. A copy of the BID is attached as Exhibit A.
- 2. **TERM**
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect until December 31, 2007.
- 3. **COMPENSATION**
 - A. **CONTRACTOR's Fee.**

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the compensation schedule set forth in the Proposal; provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$ 74,900 ("Agreement Sum"), unless otherwise first approved in writing by the CITY.

B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid monthly, within 30 days after the date of the monthly invoice.

4. **TERMINATION OF AGREEMENT**

A. Termination without Cause.

Either party may terminate this Agreement at any time, without cause, upon 30 days' written notice to the other party. Upon receipt of the notice of termination, the CONTRACTOR must immediately cease all work or services except as may be specifically approved by the CITY. CONTRACTOR will be entitled to compensation for all services rendered prior to the effectiveness of the notice of termination and for additional services specifically authorized by the CITY. The CITY will be entitled to reimbursement for any expenses that have been paid for but not rendered.

B. Termination for Cause.

If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.

In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract,

or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. FORCE MAJEURE

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. RETENTION OF FUNDS

CONTRACTOR authorizes the CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate the CITY for any losses, costs, liabilities, or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, the CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of the CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect the CITY as elsewhere provided in this Agreement.

7. THE CITY'S REPRESENTATIVE

Diane Megerdichian is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by the CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

8. **CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Gregg Miller

9. **INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY.

10. **BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform the CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from the CITY.

13. **CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the CITY, except those losses or damages as may be caused by the CITY's own negligence.

14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between the CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to the CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

15. INDEMNIFICATION

CONTRACTOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. NON-LIABILITY OF THE CITY'S OFFICERS AND EMPLOYEES

No officer or employee of the CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

17. INSURANCE

- A. CONTRACTOR and its subcontractors must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
- (1) Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - (a) Primary Bodily Injury with limits of at least \$250,000 per person, \$500,000 per occurrence; and
 - (b) Primary Property Damage of at least \$100,000 per occurrence; or
 - (c) Combined single limits of \$500,000 per occurrence.

- (2) General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
- (3) Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$1,000,000.

- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
- C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
- D. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. SUFFICIENCY OF INSURERS

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of the CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies and/or the performance bond required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of the CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a

program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
- (1) Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 - (2) First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 - (3) Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
 - (4) Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
 - (5) Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

CONTRACTOR: Miller Environmental Inc.
1668 South Lewis Street
Anaheim, CA 92805

Fax: 714-385-0011

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either the CITY or CONTRACTOR without the prior written consent of the other.

22. INTEGRATION; AMENDMENT

This Agreement represents the entire understanding of the CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. INTERPRETATION

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. SEVERABILITY

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. TIME OF ESSENCE

Time is of the essence in the performance of this Agreement.

26. GOVERNING LAW; JURISDICTION

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. COMPLIANCE WITH STATUTES AND REGULATIONS

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. WAIVER OF BREACH

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. ATTORNEY'S FEES

Except as set forth in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. EXHIBITS

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. CONTRACTOR'S AUTHORITY TO EXECUTE

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE,
a Municipal Corporation

Miller Environmental Inc.
a California Corporation

Frank Scotto, Mayor

By: _____
Gregg Miller, President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Deputy City Attorney

Attachments: Exhibit A: Bid

EXHIBIT A

BID

[To be attached]

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

BID NO. B2007-02

Bid for Soil Excavation, Disposal, and Backfill at Fleet Services

SECTION III BID PROPOSAL

FAILURE TO COMPLETE ALL ITEMS IN THIS SECTION MAY INVALIDATE BID.

In accordance with your "Invitation to Bid," the following bid proposal is submitted to the City of Torrance.

Bid Proposal Submitted By:

Miller Environmental, Inc.
Name of Company

1668 South Lewis St.
Address

Anaheim, CA 92805
City/State/Zip Code

Gregg Miller - President
Printed Name/Title

(714) 385-0099 - (714) 385-0011
Telephone Number/Fax Number

Form of Business Organization:

Please indicate the following (check one);

Corporation Partnership _____ Sole Proprietorship _____

If incorporated, what state: California

Federal Tax ID # 33-0818786

Business History:

How long have you been in business under your current name and form of business organization?

7 Years

If less than three (3) years and your company was in business under a different name, what was that name?

None

Contractor's License No.: 772797 Class: A, B, C21, ASB, HAZ

a. Date first obtained: 10/26/99

b. Has License ever been suspended or revoked? No
If yes, describe when and why: _____

c. Any current claims against License or Bond? No
If yes, describe claims: _____

Contact for Additional Information:

Please provide the name of the individual at your company to contact for any additional information

Gregg Millen
Name

President
Title

(714) 385-0099 (714) 385-0011
Telephone Number/Fax Number

Addenda Received:

Please indicate addenda information you have received regarding this bid:

Addendum No. 1 Date Received: 1/22/07
Addendum No. 2 Date Received: 1/22/07
Addendum No. _____ Date Received: _____

_____ No Addenda received regarding this bid.

References:

Please supply the names of companies/agencies for which you recently supplied comparable goods or services as requested in this BID. Contractor must have at least five years of experience in soil remediation.

see website

Name of Company/Agency	Address	Person to contact/Telephone No.
Name of Company/Agency	Address	Person to contact/Telephone No.
Name of Company/Agency	Address	Person to contact/Telephone No.
Name of Company/Agency	Address	Person to contact/Telephone No.

CSLB Lic# 772797

MILLER
ENVIRONMENTAL
INCORPORATED

HAZARDOUS MATERIAL, REMEDIATION
DEMOLITION

Gregg Miller

1668 South Lewis Street
Anaheim, California 92805
www.millerenvironmental.com

(714) 385-0099
Fax (714) 385-0011
gregg@millerenvironmental.com

BIDDER'S PROPOSAL
B 2007-02

Company: Miller Environmental Inc
 Base Bid: B2007-02

Bid for Soil Excavation, Disposal and Backfill at Fleet Services

In accordance with the Notice Inviting Bids pertaining to the receiving of sealed proposals by the City Clerk of the City of Torrance for the above titled improvement, the undersigned hereby proposes to furnish all work to be performed in accordance with the Specifications and Contract Documents, prepared by Ceres & Associates and the City of Torrance for the lump sum, alternate costs, and Contractor's values set forth in the following schedules.

Item	Description	Prices written in words	Total Bid
1.	Base Bid Per B2007-02 in its entirety	Seventy four thousand nine hundred ←	\$ 74,900.00
2.	Cost per additional C.Y. of impacted soil beyond 75 C.Y.	Three hundred eighty -	\$ 380.00

The undersigned furthermore agrees to enter into and execute a contract, with necessary bonds, at the prices set forth herein and in case of default in executing such contract, with necessary bonds, the check or bond accompanying this bid and the money payable thereon shall be forfeited thereby to and remain the property of the City of Torrance.

The above prices include all work appurtenant to the various items as outlined in the specifications and all work or expense required for the satisfactory completion of said item.

The undersigned declares that it has carefully examined the Specifications, and Contract Documents, and has investigated the site of the work and is familiar with the conditions thereon.

Miller Environmental Inc

Contractor Name

Gregory Miller - President

Signer's Name and Title

Date: 1/25/07 License No. & Classification A, B, C21, D5B, HAZ

Address: 11108 South Lewis St. Anaheim, CA 92805

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BIDDER'S AFFIDAVIT

Gregory Miller being first duly sworn, deposes and says:

1. That he/she is the President of Miller Environmental, Inc.
(Title of Office) (Name of Company)

hereinafter called "Bidder", who has submitted to the City of Torrance a bid for

Excavation, Disposal and Backfill of Fleet Services;
(Bid Title)

- 2. That the bid proposal is genuine; that all statements of fact in the bid proposal are true;
- 3. That the bid was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not named or disclosed;
- 4. That the Bidder did not, directly or indirectly, induce solicit or agree with anyone else to submit a false or sham bid, to refrain from bidding, or to withdraw his bid, to raise or fix the bid price of the Bidder or of anyone else, or to raise or fix any overhead, profit or cost element of the Bidder's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of Torrance, or of any other Bidder, or anyone else interested in the proposed contract;
- 5. That the Bidder has not in any other manner sought by collusion to secure for itself an advantage over any other Bidder or to induce action prejudicial to the interests of the City of Torrance, or of any other Bidder or of anyone else interested in the proposed contract;
- 6. That the Bidder has not accepted any bid from any subcontractor or materialman through any bid depository, the bylaws, rules or regulations of which prohibit or prevent the Bidder from considering any bid from any subcontractor or materialman, which is not processed through that bid depository, or which prevent any subcontractor or materialman from bidding to any contractor who does not use the facilities of or accept bids from or through such bid depository;
- 7. That the Bidder did not, directly or indirectly, submit the Bidder's proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Bidder in its business.
- 8. That the Bidder has not been debarred from participation in any state, federal or public works project.

Dated this 25 day of January, 2006.

Gregory Miller
(Bidder Signature)

President
(Title)

List of Subcontractors:

The bidder is required to fill in the following blanks in accordance with the provisions of the Subletting and Subcontracting Fair Practices Act (Chapter 2 of Division 5, Title 1 of the Government Code of the State of California) and should familiarize itself with section 2-3 of the Standard Specifications for Public Works Construction.

Name Under Which Subcontractor is Licensed: No Subs-

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Name Under Which Subcontractor is Licensed: _____

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Name Under Which Subcontractor is Licensed: _____

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Name Under Which Subcontractor is Licensed: _____

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Subcontractors listed in accordance with the provisions of Section 2-3 must be properly licensed under the laws of the State of California for the type of work, which they are to perform. Do not list alternate subcontractors for the same work.

ADDENDUM #1

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

BID NO. B2007-02

Bid for Soil Excavation, Disposal and Backfill at Fleet Services

ADDENDUM # 1

THE FOLLOWING CHANGES ARE HEREBY INCORPORATED INTO AND MADE A MANDATORY PART OF SUBJECT BID:

Bid Opening date remains Thursday, January 25, 2007- 3 pages total

1. Bid Form Item 2 - Is this unit cost meant to include import and placement of cement fill once additional impacted soil is removed? **Yes, the unit cost does indeed need to include the import and placement of "extra" cement.**
2. Please add a bid page for sub-contracting in case there may be any sub-contractors. **See attached sheet.**
3. Scope of work- page 6 identifies 300 LF of soil to remove- please identify how this calculation was formulated. **The calculation for lineal feet is the total length of the each bore hole added together. However, the total soil removal using a 36 inch auger is likely to be less than 300 lineal feet. The 300 figure is used because we need to have a baseline to which all proposals can be compared.**
4. As the soil from the 2 contaminated areas is excavated can we direct load the material and haul off site or is there a need for further testing that will require stockpiling? Most disposal facilities require a soil profile prior to acceptance for disposal. **If the contractor is using a disposal facility that can use the concentrations found in soil samples during the Ceres & Associates soil assessment, then that is what the bid should be based upon. If the disposal facility requires additional stockpile sampling (as is usually the case), base the bid accordingly.**
5. We propose to excavate with a small excavator or larger backhoe rather than an auger rig. We will be aware of our surroundings and the structural elements of the building- Is this method acceptable to your staff? **No, at the present time, the City cannot determine the exact depths of the columns and is concerned about the safety of conducting the project using mass removal techniques. Please use the techniques as outlined in the specifications.**
6. We propose to backfill the excavated area after all soil has been removed and the confirmation samples have been taken. We will maintain the excavation until the backfill is complete. Is this acceptable? **No, for the same reasons stated above, the City is not comfortable with a contractor maintaining an open excavation that might compromise the integrity of the structure.**
7. Please confirm that the yard will allow us adequate room to perform our work and that a staging area can be provided in the at least 3-4 of the striped stalls outside the work area against the wall. **The City will be working with the contractor to make sure you have adequate room to perform your work. However as stated at the job walk another project will be located at the striped stalls across from this job site but a reasonable location for a staging area will be discussed with the awarded contractor.**

8. Please confirm that once the concrete slab is saw cut and removed that we have no responsibility to install a new slab. **Due to the fact that new hydraulic hoists are going to be installed at the project site following this project, installation of a new concrete slab is not necessary. However, the contractor will be responsible for removing the underground concrete vault and any another other old hoist equipment that may impede the soil removal work.**
9. We propose to complete this work during regular work hours, M-F. Please confirm your acceptance. **Yes, work will be performed during regular work hours, Monday through Friday.**
10. Please put in writing that this is not a prevailing wage job as discussed on the jobwalk. **This is a non-prevailing wage project.**

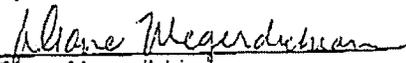
Liquidated Damages:

The Contractor agrees that failure to complete work within the time allowed will result in damages being sustained by the City. Contractor and City agree that failure to complete the project will result in inconvenience to the City of Torrance. Such delay will also result in the necessity of several inspections each day to ensure that the project is properly progressing. The parties also agree that failure to complete the project on time will prevent the City from having the use of the facility. Therefore, the parties agree such damages among others are, and will continue to be, impracticable and extremely difficult to determine, but that Two Hundred Fifty Dollars (\$250) a calendar day is the minimum value of such costs to the City and is a reasonable amount that the Contractor agrees to reimburse the City for each calendar day of delay in finishing the work in excess of the time specified for completion, plus any authorized time extensions.

Execution of the contract under these specifications shall constitute agreement by the Contractor and the City that Two Hundred Fifty Dollars (\$250) per calendar day is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs. Said amount may be reduced by the City if work is sufficiently completed within the allotted time so that the damages are minimized.

The Contractor will not be assessed liquidated damages for any delay in completion of the work when such delay was caused by the failure of the City to provide for removal or relocation of the existing utility facilities; provided, however, that the Contractor shall have given the City and the owner of a utility timely notice of the interference. "Timely notice" shall be defined as a verbal notice (to be followed up in writing) no later than one (1) hour after initial discovery of the interference unless the City Representative is present, in which case notice shall be given immediately in writing to the City Manager.

By Order Of


Diane Megerdichian
Business Manager

January 22, 2007

Please return this addendum with your bid proposal.
I hereby acknowledge receipt of this addendum.

Milke Environmental, Inc.
Name of Company
1668 South Lewis St.
Address
Oranheim CA 92805
City State Zip Code

ADDENDUM #2

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

BID NO. B2007-02

Bid for Soil Excavation, Disposal and Backfill at Fleet Services

ADDENDUM #2

THE FOLLOWING CHANGES ARE HEREBY INCORPORATED INTO AND MADE A MANDATORY PART OF SUBJECT BID:

Bid Opening date remains Thursday, January 25, 2007

CLARIFY: At minimum, the bidder must have an "A" engineering license with a hazardous substance removal certificate to bid this project.

By Order Of

Diane Megerdichlar
Diane Megerdichlar
Business Manager

January 22, 2007

Please return this addendum with your bid proposal.
I hereby acknowledge receipt of this addendum.

Miller Environmental, Inc.
Name of Company

1068 South Lewis St.
Address

Arden, CA 92805
City State Zip Code

