



## Legislation Passed November 10, 2009

The Tacoma City Council, at its regular City Council meeting of November 10, 2009, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

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### **Resolution No. 37913**

Setting Tuesday, November 24, 2009, at approximately 5:30 p.m., as the date for a public hearing by the City Council on the amended Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015.

### **Purchase Resolution No. 37914**

Awarding contracts to:

- 1.Pape & Sons Construction, Inc., in the amount of \$90,000.00, plus sales tax, for a cumulative total of \$1,214,510.13, budgeted from the Streets Special Revenue Fund, to increase the contract for the Thea Foss Waterway Esplanade – Specification No. PW08-0834F;
- 2.Ciba Corporation, part of the BASF Group, on its bid of \$246,240.00, plus sales tax, budgeted from the Wastewater Fund, for dry polymer for biosolids dewatering for an initial two-year period, plus the option to renew for three additional one-year periods, for a projected contract amount of \$615,600.00 – Specification No. PW09-0434F; and
- 3.Anthony Construction Company, Inc., on its bid of \$3,843,561.78, including sales tax and a \$150,000.00 Force Account, budgeted from the Wastewater 2006 Bond Construction Fund, for modifications to the existing dissolved air floatation thickeners located at Tacoma's Central Wastewater Treatment Plant – Specification No. PW09-0541F.

### **Resolution No. 37915**

Authorizing the execution of an amendment to the agreement with David Evans and Associates, Inc., in the amount of \$31,710, for a cumulative total of \$249,551, budgeted from the Public Works Tacoma Rail Mountain Division Capital Projects Fund, for design and construction support services to repair the Puyallup River Trestle.

### **Ordinance No. 27844**

Amending Chapter 1.23 of the Municipal Code, relating to the Hearing Examiner, to add an area of jurisdiction which will allow any administrative hearing relating to the breach or termination of cable television franchises to be heard by the Hearing Examiner.

## **RESOLUTION NO. 37913**

A RESOLUTION relating to the Six-Year Comprehensive Transportation Program; setting Tuesday, November 24, 2009, as the date for a public hearing to consider adopting the amended Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015.

WHEREAS RCW 35.77.010 provides that the legislative body of each city and town shall (1) prepare and adopt a comprehensive transportation program for the ensuing six calendar years and annually thereafter, pursuant to one or more public hearings, (2) prepare and adopt a revised and extended comprehensive transportation program, and (3) file with the Secretary of Transportation of the State of Washington each one-year extension and revision thereof, and

WHEREAS RCW 35.77.010 further provides that each city shall include in its comprehensive transportation program the intended expenditure of revenues for nonmotorized transportation purposes; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

Section 1. That Tuesday, November 24, 2009, at the hour of approximately 5:30 p.m. thereof, is hereby scheduled as the time, and the City Council Chambers in the Tacoma Municipal Building, Tacoma, Washington, as the place where the City Council will hold a public hearing to consider adopting the amended Six-Year Comprehensive Transportation Program for amended year 2009 and 2010-2015.

Section 2. That the Clerk of the City of Tacoma shall give proper notice of the time and place of said hearing.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney



## RESOLUTION NO. 37914

1 A RESOLUTION related to the purchase of materials, supplies or equipment,  
2 and the furnishing of services; authorizing the appropriate City officials to  
3 enter into contracts and, where specified, waiving competitive bidding  
4 requirements, authorizing sales of surplus property, or increasing or  
5 extending existing agreements.

6 WHEREAS the City has complied with all applicable laws governing the  
7 acquisition of those supplies, and/or the procurement of those services,  
8 inclusive of public works, set forth in the attached Exhibit "A," which Exhibit is  
9 incorporated herein as though fully set forth, and

10 WHEREAS the Board of Contracts and Awards has reviewed the  
11 proposals and bids received by the City, and the Board has made its  
12 recommendation as set forth in Exhibit "A," and

13 WHEREAS the Board of Contracts and Awards has also made its  
14 recommendations as to entering into purchasing agreements with those  
15 governmental entities identified in Exhibit "A"; Now, Therefore,

16 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

17 That the Council of the City of Tacoma does hereby concur in the  
18 findings and recommendations of the Board of Contracts and Awards set forth  
19 in the attached Exhibit "A," and does hereby approve and authorize the:

20 (X ) A. Procurement of those supplies, services, and public works  
21 recommended for acceptance in the attached Exhibit "A";

22 ( ) B. Rejection of those bids and/or proposals that are recommended  
23 for rejection in the attached Exhibit "A";  
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( ) C. Entry into the proposed purchasing agreement with those governmental entities identified in the attached Exhibit "A," which proposed agreement is on file in the office of the City Clerk;

( ) D. Waiver of competitive bidding procedures in those instances, as set forth in Exhibit "A," in which it is impracticable to obtain supplies or public works improvements by competitive bid, or in those instances in which supplies and/or public works are available from a single source.

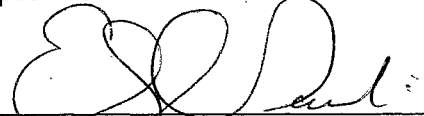
Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
Assistant City Attorney



City of Tacoma  
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37914

ITEM NO.: 1

MEETING DATE: November 10, 2009

**DATE:** October 15, 2009  
**TO:** Board of Contracts and Awards  
**SUBJECT:** PW08-0834F Thea Foss Waterway Esplanade  
Budgeted from PW Streets Special Revenue Fund 1060  
Request for Bids PW08-0834F  
Contract No. 46-5160

**RECOMMENDATION:** The Public Works, Construction Division requests approval to increase Contract 46-5160 to **Pape & Sons Construction, Inc., Gig Harbor, WA**, by \$90,000.00, plus sales tax, for PW08-0834F. This increase will bring the contract to a cumulative total of \$1,214,510.13, plus sales tax.

**EXPLANATION:** This amount is requested due to unforeseen contaminated soil excavation and disposal.

**COMPETITIVE BIDDING:** This contract was originally awarded to Pape & Sons Construction, Inc. as a result of Request for Bids Specification No. PW08-0834F in January 2009. The contractor has agreed to increase the contract at the same prices, terms, and conditions as the original contract.

**CONTRACT HISTORY:** The original contract for \$1,124,510.13, plus sales tax, was approved by City Council Resolution 37712 on January 13, 2009. This increase will bring the contract to a cumulative total of \$1,214,510.13, plus sales tax. This is the first amendment to the contract.

**FUNDING:** Funds for this are available in the PW Streets Special Revenue Fund 1060.

**PROJECT ENGINEER/COORDINATOR:** Travis Tucker, Public Works Construction, 253-594-7969.

Richard E. McKinley  
Public Works Director

cc: Chuck Blankenship, Finance/Purchasing  
Percy Jones, HUB  
Peter Guzman, LEAP  
Rae Bailey/Leigh Starr/Travis Tucker, Public Works Construction Division  
Darius Thompson, Public Works Engineering Division



City of Tacoma  
Public Works Department

**DATE:** October 20, 2009  
**TO:** Board of Contracts and Awards  
**SUBJECT:** Dry Polymer for Biosolids Dewatering  
Budgeted from PW Wastewater Fund 4300.  
Request for Bids Specification No. PW09-0434F

EXHIBIT "A"  
RESOLUTION NO.: 37914  
ITEM NO.: 2  
MEETING DATE: November 10, 2009

**RECOMMENDATION:** Public Works, Environmental Services/Operations Division recommends a contract be awarded to second low bidder **Ciba Corporation, part of the BASF Group, Suffolk, VA**, for purchase of dry polymer for biosolids dewatering. The recommendation is for an initial two-year contract term, in the amount of \$246,240.00, plus sales tax, and the option for three additional one-year renewal periods, for an aggregate total of \$615,600.00, plus sales tax. The specification documents contain market-based provisions for price escalation/de-escalation that will affect overall contract value.

**EXPLANATION:** The dry polymer is used to gather suspended particles facilitating the process of biosolids dewatering.

**COMPETITIVE SOLICITATION:** Request for Bids Specification No. PW09-0434F was opened August 18, 2009. Six companies were invited to bid in addition to normal advertising of the project. Five submittals were received.

\*Bids were evaluated on product performance and the cost of the polymer to produce a dry ton of wastewater biosolids. Treatment performance parameters included: (1) parameters of solids capture rate, (2) percentage of cake solids, (3) total suspended solids (TSS) in filtrate, and (4) the final cost of the product in both cost per pound, and cost per dry ton (DT) of processed solids. The bid evaluation spreadsheet is attached.

Three performance criteria were included in the bid specification to determine the product that produces the best dewatered solids and the cleanest residual water remaining from the treatment process.

Per the bid document and Tacoma Municipal Code 1.06.262, "The award of this contract may not be based on cost alone, but other factors and features equally important".

In addition to price, three performance criteria were listed in the bid document:

- 90% minimum solids capture rate
- 17% minimum cake solids
- 1,000 md/l maximum filtrate TSS

90% minimum solids capture rate

- None of the bidders were able to achieve the 90% minimum solids capture rate

Three of the five bidders met two of the three remaining performance parameters:

- 17% minimum cake solids
- 1,000 md/l maximum filtrate TSS

They were:

1. Ciba Corporation
2. Polydyne, Inc.
3. Ashland Hercules Water Technologies

Of the three bidders meeting the remaining performance parameters, Ciba Corporation has the lowest treatment cost of polymer to produce a dry ton of wastewater biosolids and the lowest cost to treat 10,000 dry tons of biosolids in a two-year period.

The table below reflects the amount of the initial contract term.

<u>Respondent</u>	<u>Location</u> <i>(city and state)</i>	<u>Submittal Amount</u> <i>(Plus Sales Tax)</i>
Northstar Chemical Inc.	Sherwood, OR	\$ 236,400.00
*Ciba Corporation, part of the BASF group	Suffolk, VA	\$ 246,240.00
Polydyne, Inc.	Riceboro, GA	\$ 252,810.00
Diacon Technologies, Inc,	Vancouver, WA	\$ 316,350.00
Ashland Hercules Water Technologies, a Division of Ashland, Inc.	Dublin, OH	\$ 382,080.00
	Pre-bid estimate	\$ 250,000.00

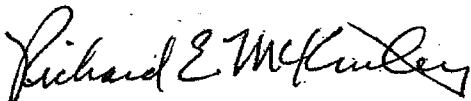
The recommended award is 2 percent below the pre-bid estimate.

**CONTRACT HISTORY:** New contract.

**FUNDING:** Funds for this contract are available in the PW Wastewater Fund 4300. Funding beyond the current biennium is subject to future availability of funds.

**HUB/LEAP COMPLIANCE:** Not applicable.

**PROJECT ENGINEER/COORDINATOR:** Mike Patrick, ES Operations Division, 253-404-6938.



Richard E. McKinley  
Public Works Director

cc: James Wilkerson, Purchasing Analyst  
Percy Jones, HUB  
Peter Guzman, LEAP  
Steve Schmidt, PW/ES-Maintenance



**City of Tacoma**  
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37914

ITEM NO.: 3

MEETING DATE: November 10, 2009

**DATE:** October 21, 2009  
**TO:** Board of Contracts and Awards  
**SUBJECT:** Central Treatment Plant DAFT Co-Thickening Modifications  
 Budgeted from PW Wastewater 2006 Bond Construction Fund 4300-06CON  
 Request for Bids Specification No. PW09-0541F

**RECOMMENDATION:** Public Works, Science and Engineering Division, recommends that a contract be awarded to the second low bidder **Anthony Construction Company, Inc., Seattle, WA**, for modifications to the existing dissolved air floatation thickeners located at Tacoma's Central Treatment Plant. The contract amount reflects a total award of \$3,843,561.78, including sales tax, and a \$150,000.00 Force Account.

**EXPLANATION:** This Optimization Project utilizes existing infrastructure to provide for DAFT (Dissolved Air Floatation Thickening) co-thickening of both primary and secondary solids within the treatment process. This project will reduce chemical costs, increase the effective volume of the digesters for future plant loadings and improve overall secondary treatment performance.

**COMPETITIVE BIDDING:** Request for Bids Specification No. PW09-0541F was opened October 6, 2009. Nine companies were invited to bid in addition to normal advertising of the project. Seven submittals were received. \*The apparent low bidder is Pease & Sons, Inc., with a total bid amount of \$3,822,336.82, including sales tax. The contract documents required a Historically Under-Utilized Business (HUB) Goal of 2%, and Pease & Sons, Inc. submitted a bid with only a 0.1% HUB participation. The second apparent low bidder is Anthony Construction Company, Inc. with a total bid amount of \$3,843,561.78, including sales tax. Anthony Construction Company, Inc. submitted a HUB participation of 2.7% and the total bid amount is within 5% of the low bidder, Pease and Sons, Inc. The Historically Under-Utilized Business (HUB) participation level proposed by the bidder(s) are reflected as a credit (maximum applies) against the submitted base bid to arrive at an "evaluated bid" for ranking purposes. Anthony Construction Company, Inc. submitted a bid that resulted in the lowest evaluated submittal after consideration of HUB participation goals. The table below reflects the amount of the total award.

<b>Recommended vendor</b>	<b>Location</b> <i>(city and state)</i>	<b>Submittal Amount</b> Including Sales tax	<b>Evaluated Submittal</b>
*Pease & Sons, Inc.	Tacoma, WA	\$ 3,822,336.82	\$ 3,349,869.00
<b>Anthony Construction Company, Inc.</b>	<b>Seattle, WA</b>	<b>\$ 3,843,561.78</b>	<b>\$ 3,211,294.56</b>
Boss Construction, Inc.	Bellingham, WA	\$ 3,962,464.88	\$ 3,322,489.82
Prospect Construction, Inc.	Puyallup, WA	\$ 3,966,662.00	\$ 3,431,296.31
Award Construction, Inc.	Ferndale, WA	\$ 4,094,156.08	\$ 3,440,566.55
David L. Sack Construction Co., Inc.	Burien, WA	\$ 4,227,663.84	\$ 3,562,714.55
McClure and Sons, Inc.	Mill Creek, WA	\$ 4,303,626.25	\$ 3,632,213.56
	Pre-bid Estimate	\$ 3,389,473.00	

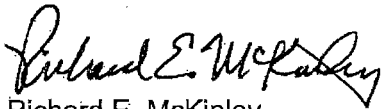
The recommended award is 13.4 percent above the pre-bid estimate.

**CONTRACT HISTORY:** New contract.

**FUNDING:** Funds for this are available in the PW Wastewater 2006 Bond Construction Fund 4300-06CON. Funding beyond the current biennium is subject to future availability of funds.

**HUB/LEAP COMPLIANCE:** The recommended contractor is in compliance with the Historically Under-utilized Business (HUB) Regulation requirements per memorandum dated October 20, 2009. The HUB goal for this project is 2 percent. The HUB participation level of the recommended contractor is 2.7 percent. Anthony Constuction Company, Inc. submitted the lowest evaluated bid per the HUB Regulation requirements. The Local Employment and Apprenticeship Training Program (LEAP) goal is 1,327 hours.

**PROJECT ENGINEER/COORDINATOR:** Pamela Randolph, Wastewater Operations, 502-2155.



Richard E. McKinley  
Public Works Director

cc: James Wilkerson, Purchasing Analyst  
Percy Jones, HUB  
Peter Guzman, LEAP

File: Science and Engineering

## **RESOLUTION NO. 37915**

A RESOLUTION relating to Tacoma Rail Mountain Line; authorizing the execution of Amendment No. 1 to a contract with David Evans and Associates, Inc., in the amount of \$31,710, for a cumulative contract amount of \$249,551, budgeted from the Public Works Tacoma Rail Mountain Division Capital Projects Fund, for design and construction support services to repair the Puyallup River Trestle.

WHEREAS, on February 10, 2009, the City Council adopted Resolution No. 37732, authorizing the execution of an agreement with David Evans and Associates, Inc., in the amount of \$217,841, for design and construction support services to repair the Puyallup River Trestle, and

WHEREAS, in order to provide for unforeseen design services for the trestle and additional construction support services for a second phase of trestle repairs, the parties wish to amend the contract, increasing the compensation by \$31,710, for a cumulative contract amount of \$249,551, and increasing the scope of work in order to accomplish the necessary additional design and construction support services; Now, Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:**

That the proper officers of the City are hereby authorized to execute Amendment No. 1 to the contract with David Evans and Associates, Inc., in the amount of \$31,710, for a cumulative contract amount of \$249,551, budgeted from the Public Works Tacoma Rail Mountain Division Capital Projects Fund,

for design and construction support services to repair the Puyallup River  
Trestle, said document to be substantially in the form of the proposed  
Amendment No. 1 on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

**ORDINANCE NO. 27844**

AN ORDINANCE relating to the Hearing Examiner; amending Section 1.23.050 of the Tacoma Municipal Code to add an area of jurisdiction.

WHEREAS, as a result of the franchise negotiations with Comcast of Tacoma, Inc., and Comcast of Puget Sound, Inc. ("Comcast"), Comcast has requested that the City allow any administrative hearing related to the breach or termination of cable television franchises to be heard by the City's Hearing Examiner, and

WHEREAS, to accomplish this, Section 1.23.050 of the Tacoma Municipal Code must be amended to give the Hearing Examiner jurisdiction over this area; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Section 1.23.050 of the Tacoma Municipal Code is hereby amended, as set forth in the attached Exhibit "A," as if fully set forth herein.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

## EXHIBIT "A"

### 1.23.050 Areas of jurisdiction.

A. The Examiner shall receive and examine relevant information, conduct public hearings, maintain a record thereof, and enter findings of fact, conclusions of law, and recommendations to the City Council or other order, as appropriate, in the following matters:

1. Applications for rezoning of property (Chapter 13.05);
2. Formation of Local Improvement Districts (Chapter 10.04);
3. Approval of Local Improvement District assessments (Chapter 10.04);
4. Dangerous sidewalks proceedings (Chapter 10.18);
5. Petitions for street and alley vacations (Chapter 9.22);
6. Appeals of administrative determinations of the City Council (Section 1.06.820);
7. Appeals from the decision of the Landmarks Preservation Commission regarding certificates of approval (Section 42.080); and
8. Appeals of a decision of the City Council to remove a member of a City board, commission, committee, task force, or other multi-member body from office (Chapter 1.46).

B. In regard to the matters set forth below, the Examiner shall conduct adjudicative proceedings, maintain a record thereof, and enter findings of fact, conclusions of law, and a final decision or other order, as appropriate:

1. Applications for preliminary plat approval for subdivisions exceeding nine lots (Chapter 13.04);
2. Appeals from decisions of the Land Use Administrator (Chapter 13.05);
3. Appeals from decisions of the City Engineer regarding removal of or pruning trees on City-owned property (Chapter 9.20);
4. Appeals from the decisions or order of the Health Officer regarding violations of the Infectious Waste Management Code (Section 5.04.170);
5. Appeals from the Health Officer's denial of a permit to operate a swimming pool under Chapter 5.50 (Section 5.50.030);
6. Appeals from denial or revocation of a permit for sidewalk vending (Section 6.81.120);
7. Appeals regarding determinations of unlawful discriminatory practice under the Human Rights Commission chapter (Chapter 1.29);
8. Appeals from determinations of the Chief of Police, or his or her designee, regarding Potentially Dangerous Dogs and Dangerous Dogs (Chapter 17.04);
9. Appeals arising out of the Tax and License Code (Title 6);
10. Appeals arising out of the City Environmental Code, Chapter 13.12 (Section 13.12.680);
11. Appeals arising under the City's commute trip reduction ordinance (Chapter 13.15);
12. Actions brought under the City's Whistle Blower Policy;
13. Appeals from the film production coordinator's decisions regarding productions of motion pictures within the City (Section 11.10.140);
14. Appeals from denial of special permits regarding solid waste recycling (Section 12.09.070);
15. Matters referred for adjudication by the Civil Service Board under its rules of procedure (Charter Section 6.11(c));
16. Appeals arising under the City's concurrency management ordinance (Chapter 13.16);
17. Hearing of violations of the City's Ethics Code (Chapter 1.46);
18. Appeals from the Public Works Director's determination of civil penalties or any other charge, order, requirement, decision, or determination issued by the Director or his or her staff pursuant to the sewage disposal and drainage regulations ordinance (Chapter 12.08);
19. Appeals from the Public Works Director's determination of civil penalties for violations of the solid waste ordinance and appeals arising out of the imposition by the Director, or his or her staff, of solid waste utility charges; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapter 12.09);

20. Appeals from the decision of the Community and Economic Development Department Director denying or canceling a final Certificate of Tax Exemption under Tacoma's Mixed-Use Center Development ordinance (Chapter 13.17);
21. Appeals arising from the imposition of charges for service issued by the Department of Public Utilities, as well as those arising from disputes concerning utility service, use of watershed or other Department property, and termination of any use; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapters 12.06 and 12.10);
22. Appeals arising out of the City's Minimum Building and Structures Code (Chapter 2.01);
23. Appeals from sign enforcement (Section 13.05.105);
24. Applications for projects that require land use permits from the City of Tacoma as well as from a neighboring jurisdiction transferred to the jurisdiction of the Hearing Examiner in accordance with Section 13.05.040.F;
25. Appeals from Nuisance Code and Chronic Nuisance Code enforcement (Section 8.30.090) (Section 8.30A.080);
26. Appeals arising from a decision to deny a special street use permit (Section 16B.09.1.8);
27. Appeals arising from the establishment of a reimbursement assessment area and levying of a reimbursement assessment upon benefited property owners, pursuant to Chapter 35.72 RCW and applicable City ordinances;
28. Appeals from the decision of the Landmarks Preservation Commission regarding certificates of approval and decisions on demolition applications (Section 13.07.160);
29. Applications for wetland and stream development permits, wetland and stream assessments, and wetland delineation verifications in conjunction with a preliminary plat approval or reclassification.
30. Appeals regarding overpayment of wages (Section 1.12.071); and
31. Administrative hearings related to the breach or termination of cable television franchises granted, pursuant to Subtitle 16A.

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