

Agenda Report

TO: CITY COUNCIL

DATE: February 23, 2009

THROUGH: FINANCE COMMITTEE

FROM: CITY MANAGER

SUBJECT: AMENDMENT TO CONTRACT NO. 19,747 WITH DIVERSIFIED LANDSCAPE MANAGEMENT INC., TO INCREASE THE TOTAL NOT TO EXCEED AMOUNT BY \$146,550 FROM \$87,500 TO \$234,050 FOR EXPANSION OF THE NEW YORK DRIVE MEDIAN ISLAND PROJECT, AND THE PASADENA AVENUE AND BELLEFONTAINE MEDIAN LANDSCAPING PROJECT

RECOMMENDATION:

It is recommended that the City Council:

1. Find the Pasadena Avenue and Bellefontaine Median Landscaping project to be categorically exempt under Article 19, Section 15302 of the California Environmental Quality Act (CEQA);
2. Amend Contract No. 19,747 with Diversified Landscape Management, Inc. (DMLI), to increase the contract by \$146,550 for a total not to exceed amount of \$234,050 for additional scope of work as part of the Landscaping of New York Drive Median Islands project;
3. Approve a journal voucher recognizing and appropriating \$124,000 of Commercial Development Fees - East to the New York Drive Median Islands project, Budget Account 78803;
4. Approve a journal voucher recognizing and appropriating \$46,750 of Commercial Development Fees - West to the Pasadena Avenue and Bellefontaine Median Landscaping project, Budget Account 78150; and
5. Exempt this amendment from competitive bidding based on impracticality, although some of this work may be viewed as a separate project which should be competitively bid.

BACKGROUND:

On September 22, 2008, Contract No. 19,747 was awarded to Diversified Landscape Management, Inc., for the New York Drive Median Islands project for a not to exceed amount of \$87,500. The original scope of work provided for the removal of the existing asphalt and concrete paving within the median islands, installation of a new low-flow irrigation system, and drought tolerant plants on New York Drive from Sierra Madre Boulevard to 700 feet south of Bradley Street.

The additional work proposed under this contract amendment includes extending the median island improvements currently under construction between Sierra Madre Boulevard and 700 feet south of Bradley Street, and include the reach between Bradley Street and Altadena Drive within the City limits to complete this project. The proposed improvements on the additional reach of New York Drive are the same as the original project. The estimated cost to extend the project limits is \$104,000 for construction and \$20,000 for staff time for a total of \$124,000. Funding has been identified in Commercial Development Fees and will be appropriated by journal voucher to the New York Drive Median Islands project.

The proposed contract amendment also includes additional scope of work to provide landscape enhancements in the existing median island at the intersection of Pasadena Avenue and Bellefontaine Street. This work consists of the modification and expansion of the existing irrigation system and installation of new trees, drought tolerant plants and groundcover. The existing trees within the median island will remain. This additional work is identified under the Pasadena Avenue and Bellefontaine Median Landscaping project, currently unfunded in the City's adopted FY 2009 Capital Improvement Program (CIP). Approval of final plans will require a Caltrans permit and/or maintenance agreement.

It is proposed that the additional work at Pasadena Avenue and Bellefontaine Street be consolidated with the New York Drive Median Islands project under Contract No. 19,747 to facilitate the completion of much needed improvements along the Pasadena Avenue corridor. The estimated cost of the additional work at this location is \$42,550 for construction and \$4,200 for staff time for a total of \$46,750. Funding has been identified in Commercial Development Fees and will be appropriated by journal voucher to the Pasadena Avenue and Bellefontaine Median Landscaping project.

To expedite completion of these projects as stated above, and to the extent some of the work might be viewed as a separate project which should be competitively bid, it is recommended the City Council exempt the amendment to the contract with Diversified Landscape Management, Inc., from competitive bidding based on impracticality. The original specifications, under which Diversified Landscape Management, Inc., was selected as the low bidder, did not provide for the expanded scope of work and this work could be considered to be subject to competitive bidding. However, the City Council is herewith requested to approve that the expanded scope of work be performed by Diversified Landscape Management, Inc., without further competitive bidding on the grounds that it is impractical to bid and that the public interest would not be served by bidding.

The impracticality doctrine is recognized and created by the case of *Graydon v. Pasadena Redevelopment Agency*. It is impractical to bid and the public interest would not be served by bidding for the following reasons: the schedule for the construction is based on having the landscaping completed to meet the existing demands and in order to achieve this, immediate action on the scope of work outlined above is necessary. As in *Graydon v. Pasadena Redevelopment Agency*, 104 Cal. App. 3d631, 164 Cal. RTTR. 56 1980, there is already a contractor mobilized who was selected for related work through a competitive bidding process and is capable of performing the work. Diversified Landscape Management, Inc., is currently under contract with the City, has machinery and personnel at the site and can provide these construction services immediately, which also provides for cost-efficiency as compared to bringing in another contractor. Given the company's quality of work, timeliness of performance and pricing, coupled with the financial impacts of the economy, staff believes the City would be best served by amending and continuing a single contract with Diversified Landscape Management, Inc., for the aforementioned projects.

At the time of contract award, the New York Drive Median Islands project was acknowledged as being categorically exempt under Article 19, Section 15304, subsection (b) of the CEQA in accordance with Section 21084 of the Public Resources Code. The additional work on New York Drive extends the project limits with the same scope of work as the original project, and would therefore be supported under the initial CEQA determination of categorically exempt.

The Pasadena Avenue and Bellefontaine Median Landscaping project has been determined to be categorically exempt under Article 19, Section 15302 of the CEQA. The Notice of Exemption was filed with the Los Angeles County Clerk on January 28, 2009.

FISCAL IMPACT:

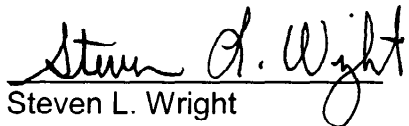
Funds for this contract amendment will be available in the New York Drive Median Islands project (CIP Budget Account 78803) and the Pasadena Avenue and Bellefontaine Median Landscaping project, (CIP Budget Account 78150), upon approval of the journal vouchers appropriating \$124,000 and \$46,750 respectively to these accounts.

Respectfully submitted,



MICHAEL J. BECK
City Manager

Prepared by:



Steven L. Wright
Assistant City Engineer
Department of Public Works

Approved by:



Martin Pastucha
Director
Department of Public Works

**Disclosure Pursuant to the
City of Pasadena Taxpayer Protection Amendment
Pasadena City Charter, Article XVII**

Contractor/Organization hereby discloses its trustees, directors, partners, officers, and those with more than 10% equity, participation, or revenue interest in Contractor/Organization, as follows:

(If printing, please print legibly. Use additional sheets as necessary.)

1. Contractor/Organization Name: Diversified Landscape Management, Inc
--

2. Type of Entity: <input checked="" type="checkbox"/> non-government <input type="checkbox"/> nonprofit 501(c)(3), (4), or (6)

3. Name(s) of trustees, directors, partners, officers of Contractor/Organization: Cynthia J Smallwood
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A

4. Names of those with more than a 10% equity, participation or revenue interest in Contractor/Organization: Cynthia J Smallwood
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A
N/A

Prepared by: Cynthia J Smallwood

Title: President

Phone: (951) 734-6161

Date: 1/28/09