



Agenda Report

February 10, 2020

TO: Honorable Mayor and City Council

FROM: Water and Power Department

SUBJECT: AMEND CONTRACT NO. 31433 WITH DOWNING CONSTRUCTION, INC. BY INCREASING THE NOT-TO-EXCEED AMOUNT FROM \$4,464,816 TO \$5,384,816 FOR FURNISHING LABOR AND MATERIALS FOR THE INSTALLATION OF DUCTILE IRON WATER MAINS IN ORANGE GROVE BOULEVARD

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15301 (Existing Facilities) and 15302 (Replacement or Reconstruction) and that there are no features that distinguish this project from others in the exempt classes and, therefore, there are no unusual circumstances; and
2. Authorize the City Manager to amend Contract No. 31433 with Downing Construction, Inc. ("Downing") by increasing the not-to-exceed amount by \$920,000 to complete the Orange Grove Project ("Project"). This amendment increases the contract value from \$4,464,816 to \$5,384,816.
3. Find that it is in the public interest to amend Contract No. 31433 with Downing, as set forth above; and, to the extent such amendment might be viewed as a separate project which should be competitively bid, exempt this transaction from competitive bidding based on impracticality.

BACKGROUND:

On March 11, 2019, the City Council authorized the City Manager to enter into contract with Downing to provide labor and materials for the construction of the Orange Grove Project in the amount of \$4,464,816, including a 10 percent contingency. The Project consists of installing 2.3 miles of a 24-inch transmission mainline, which will serve as the transmission conduit for drinking water between the two largest City reservoirs – Sunset Reservoir on the west and Jones Reservoir on the east. The new 24-inch ductile iron mainline functionally replaces the existing 36-inch diameter steel transmission main in Mountain Street installed in 1934 to convey water from Morris

Reservoir to the Sunset Reservoir. The existing 36-inch transmission main will be removed from service as other infrastructure improvements are completed as part of PWP's capital improvement program.

The City's Public Works Department ("PWD") is preparing to repave Orange Grove Boulevard in 2020 including other public improvements such as sidewalk and curb replacement. In order to minimize the disruption to the community, PWP and PWD coordinated efforts so that PWP will complete the installation of the 24-inch water main immediately prior to the start of work by PWD.

The additional contract amount would address unexpected costs associated with the Project. The Project design drawings include known buried utilities based on historical and as-built plans provided by various utility owners including PWD, the Gas Company, PWP, and others. However, during construction it was found that as-built records and drawings were not accurate on many buried utility location depths below the roadway surface. In addition, there were abandoned utilities that were often not recorded on as-built drawings, and therefore cannot be shown on the design drawings.

Given the size of the 24-inch pipeline and the numerous buried utilities along the Project's 2.3 mile route, Downing was required to lower the original design depth by approximately 3 to 5 additional feet. In some situations, the transmission main is being installed 15 to 17 feet below street grade to avoid existing utilities. Due to new depths, appurtenances, such as, air release valves are also required, that were not included in the original bid specifications. Based upon 6,700 feet of pipeline completed and the change orders already approved, an additional \$920,000 is necessary to complete the project. This adjustment increases the total not-to-exceed amount of the contract to \$5,384,816.

It is recommended to amend the not-to-exceed contract amount with Downing from \$4,464,816 to \$5,384,816 without further competitive bidding on the basis that Downing was selected as the lowest cost responsive bidder for the Project, it has the large machinery and personnel on site ready to provide these services immediately. This will allow the Project to be completed quicker than would be the case if the remaining construction was re-advertised through a competitive bidding process. The Project is fifty-five percent complete and Downing can continue with the original project completion schedule in fiscal year 2020.

The City Council is asked to approve the work being performed by Downing be completed 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 due to operational and safety considerations and the impact on traffic, residents and local businesses. As in *Graydon v. Pasadena Redevelopment Agency*, 104 Cal. App. 3d631 (1980), the contractor who was selected for related work through a competitive bidding process is already mobilized and capable of performing the work. Downing has the heavy machinery and personnel at the site needed to provide these services

immediately, which also provide for cost-efficiency as compared to bringing in another contractor. As a result, the project will be completed on schedule.

COUNCIL POLICY CONSIDERATION:

The Project is consistent with the City Council's Strategic Planning Goals to: (i) Improve, maintain, and enhance public facilities and infrastructure; and, (ii) Ensure public safety. It supports PWP's Master Plan adopted by the City Council in 2002 to allow for the replacement of aging water distribution mains and establishment of reliable infrastructure for the City's water system.

ENVIRONMENTAL ANALYSIS:

The Project is categorically exempt from CEQA review pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and 15302 (Class 2: Replacement or Reconstruction). The Class 1 categorical exemption covers the repair, maintenance, or minor alteration of existing public or private structures, facilities, and mechanical equipment including existing publicly owned utilities, involving negligible or no expansion of use. The Class 2 exemption covers the replacement or reconstruction of existing structures and facilities (including utility systems) where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The Project replaces 2.3 miles of a distribution main for capital improvements as part of PWP's mainline replacement program. All of the contemplated maintenance activities and improvements constitute negligible or no expansion of capacity. There is no impact to other projects as a result of approval of this contract. There are no features that distinguish this project from others in the exempt classes and, therefore, there are no unusual circumstances.

FISCAL IMPACT:

The total cost of this action to increase Contract No. 31433 with Downing is \$920,000. Funding for this action will be addressed by the utilization of existing appropriations in Water Capital Fund CIP #01001 – Distribution Mains. PWP anticipates that a request may be required to amend the FY2020 Water Capital Fund appropriations in the third quarter of fiscal year 2020.

It is anticipated that all of the contract amount will be spent in fiscal year 2020. The following table presents the contract summary:

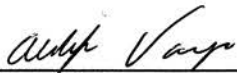
Initial Contract Amount	\$4,464,816
Requested Increase	\$ 920,000
Total Amended Contract Amount	\$5,384,816

Respectfully submitted,



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Approved by:



STEVE MERMELL
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