

Agenda Report

TO: CITY COUNCIL

DATE: June 1, 2009

THROUGH: FINANCE COMMITTEE

FROM: CITY MANAGER

SUBJECT: AMENDMENT NO. 2 TO CONTRACT NO. 19,747 WITH DIVERSIFIED LANDSCAPE MANAGEMENT INC., TO INCREASE THE TOTAL NOT TO EXCEED AMOUNT BY \$88,000 FROM \$234,050 TO \$322,050 FOR EXPANSION OF THE NEW YORK DRIVE MEDIAN ISLAND PROJECT

RECOMMENDATION:

It is recommended that the City Council:

1. Amend Contract No. 19,747 with Diversified Landscape Management, Inc., to increase the contract by \$88,000 for a total not to exceed amount of \$322,050 for additional scope of work as part of the Landscaping of New York Drive Median Islands project;
2. Approve a journal voucher recognizing and appropriating \$78,000 of Commercial Development Fees - East to the New York Drive Median Islands project, Budget Account 78803;
3. Recognize and appropriate \$10,000 in funding from the Office of Los Angeles County Supervisor Michael Antonovich to the New York Drive Median Islands project, Budget Account 78803; and
4. For the reasons set forth in the body of the report, find that this amendment is not subject to competitive bidding, based upon the doctrine of impracticality, and that the interest of the public would not be served by a further bid process.

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.

On February 23, 2009 the City Council approved a contract amendment to increase the contract by \$146,550 for a total not to exceed amount of \$234,050 for additional scope of work to extend the project limits from Bradley Street to the City limits just east of Altadena Drive (Phase II), as part of the Landscaping of New York Drive Median Islands project.

The additional work proposed under this contract amendment includes extending the median island improvements currently under construction to Altadena Drive, which is under the jurisdiction of Los Angeles County. 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 \$10,000.

This contract amendment also includes an additional \$78,000 which is needed to complete work on Phase II of the project. This work includes the installation of a portion of the irrigation system, two new water meters, decomposed granite and shrubs in the median islands. Due to the urgency to process the first contract amendment before the original contract expired, the quantities and cost of these items were estimated prior to the completion of the plans, resulting in the funding shortfall. Additional payment for unforeseen conditions during Phase II demolition, which included the removal of asphalt pavement that was twice as thick as was originally thought, also contributed to the funding shortfall. The planting of the trees in the median islands will be done under a separate contract and will be postponed until the winter planting season.

The total amount of the additional work under this contract amendment is \$88,000. Funding in the amount of \$78,000 has been identified in Commercial Development Fees and will be appropriated by journal voucher to the New York Drive Median Islands project. The remaining \$10,000 will be provided through the Office of Los Angeles County Supervisor Antonovich.

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 find that this amendment to the contract with Diversified Landscape Management, Inc., is not subject to competitive bidding based upon the doctrine of "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 might otherwise be considered subject to a further, competitive bid requirement. 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.App3d 631, 164 Cal.Rptr. 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 integrated nature of this additional work with the original contract, given the continuation of the work on a price basis set through a related competitive bid process, given the fact that a contractor is mobilized and on site, and given performance and progress to date, staff recommends that the Council find that the construction of the work as a unified contract without further competitive bidding would be advantageous and in the public interest.

ENVIRONMENTAL ISSUES:

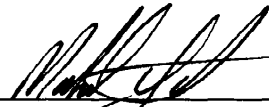
At the time of contract award, the New York Drive Median Islands project was acknowledged as being categorically exempt under Article 19, Section 15304, subsection (b) of the CEQA in accordance with Section 21084 of the Public Resources Code. The additional work on New York Drive extends the project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

Furthermore, this project address Green Policy Initiatives #3 "Reduce Greenhouse Gas Emissions" by adding new plants that will convert greenhouse gasses and thereby help provide a net reduction. The project also addresses a portion of Green Policy Initiatives #19 "Irrigation Efficiencies" by providing a landscape that requires very little water while improving the aesthetic of the project area.

FISCAL IMPACT:

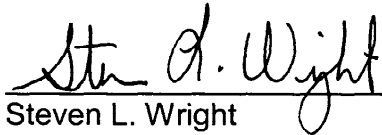
Sufficient funds for this contract amendment will be available in the New York Drive Median Islands project (CIP Budget Account 78803) upon approval of the journal voucher appropriating \$78,000 in Commercial Development Fees – East and appropriating \$10,000 from the Office of Los Angeles County Supervisor Antonovich to this account.

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:
 non-government 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

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

Prepared by: Cynthia J Smallwood
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Date: 1/28/09