



Agenda Report

TO: CITY COUNCIL

FROM: CITY MANAGER

SUBJECT: CHANGE ORDER TO CONTRACT #16,895 WITH HENKELS & McCOY FOR ADDITIONAL SPLICING SERVICES IN CONNECTION WITH THE CONSTRUCTION OF THE CITY'S FIBER OPTIC BACKBONE IN AN AMOUNT OF \$25,000

RECOMMENDATION

It is recommended that the City Council authorize the City Manager to approve a change order to contract #16,895 with Henkels & McCoy for additional splicing services in connection with the construction of the City's Fiber Optic Backbone in an amount not to exceed \$25,000, without competitive bidding on the basis of impracticality.

BACKGROUND

On February 8, 1999, City Council approved contract #16,895 with Henkels & McCoy for the purpose of constructing the City's 25-mile fiber optic backbone. The original contract was in an amount not to exceed \$187,408. This change order would raise that amount to not to exceed \$212,408.

At this time, the backbone construction is complete with the exception of final splicing in ten specific locations where the backbone interconnects with itself. This number of splice locations was not anticipated to be that high. Due to discussions with a number of telecommunications companies, it is now clear that the City's asset will have considerable more value to a telecommunications partner if a larger amount of splice locations are provided. Engineering aspects of the construction also require additional splice locations where the backbone interconnects with itself.

Depending on the nature of the project, City bid specifications may contain a provision which allow for the ordering of additional work at a per unit cost specified in the bidder's proposal. The bid specifications for the installation of the fiber optic backbone was based on a total lump-sum price for the complete installation and did not include a unit cost breakdown.

Because the specifications did not provide for it, the additional work being requested at this time would normally be subject to competitive bidding; however, the City Council is asked to approve the work 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 Graydon v. Pasadena Redevelopment Agency. It is impractical to bid and the public interest would not be served by bidding for the following reasons: As in Graydon v. Pasadena Redevelopment Agency, 104 Cal. App. 3d631, 164 Cal. Rptr. 56 1980, there is already a contractor mobilized who was selected for related work through a competitive bidding process. Likewise, the additional work can be considered an integral part of the initial work because Henkels & McCoy was the lowest responsive bidder for the installation of fiber optic backbone, was awarded the contract for that work and has mobilized to perform the contract. The cost of the additional work is consistent with the original bid price and, in the opinion of the project managers, significant cost and delay would be involved were a new contractor to mobilize for the work and it would not be in the interests of the City or the taxpayers to undertake a bid process likely to result in additional costs for the same work.

On a side note, the Request for Proposals (RFPs) for the and administration of the backbone was sent out to over 100 telecommunications firms on April 6, 1999. The response deadline is May 27, 1999 and staff is optimistic that the City will, at a minimum, recover its entire investment of \$1.8 million through that partnership. Staff will provide further information once the proposals have been reviewed.

FISCAL IMPACT

There are sufficient funds in the Fiber Optic Backbone Construction Fund to cover these additional costs.

Respectfully submitted,


for CYNTHIA J. KURTZ
City Manager

Prepared and Approved by:


ROBERT K. PERSON
Assistant to the City Manager &
Information Technology Administrator