



CITY COUNCIL AGENDA STATEMENT



October 20, 2020

File ID: 20-0360

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND PROFESSIONAL PIPE SERVICES TO PROVIDE SEWER MANHOLE INSPECTION AND EVALUATION SERVICES

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

Staff has negotiated a First Amendment to the agreement between the City of Chula Vista (City) and Hoffman Southwest Corporation dba Professional Pipe Services (Consultant) for the Sewer Manhole Inspection and Evaluation Services to authorize payment of additional compensation to Consultant for increased labor rates due to payment of prevailing wages and potential corresponding penalties that may be assessed by the Department of Industrial Relations (DIR). The DIR notified the City of the Labor Code Compliance Investigation on December 23, 2019 so the Consultant made an additional wage compensation payment in the amount of \$73,876.61 to the affected employees to comply with applicable prevailing wage rates. DIR is currently assessing penalties and reviewing the compensation payment, so the final payments may vary.

ENVIRONMENTAL REVIEW

The City's Development Services Director has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

DISCUSSION

The Request for Proposal for Sewer Manhole Inspection and Evaluation Services was advertised on March 12, 2015 as a prevailing wage contract. Proposals were submitted by March 18, 2015 with prevailing wage rates. On or about April 30, 2015, the City determined the services were non-prevailing wage as the services were not for the construction, maintenance, repair, or replacement of a public facility or real property. Although the contract was advertised as prevailing wage the determination of the most qualified contractor did not use cost as a primary evaluation factor thus the contract was not re-bid but the contract cost was negotiated and appropriately reduced.

The Consultant Agreement was executed on July 21, 2015 and the Consultant began work. After satisfactorily completing the work for the contract period, yearly extensions were issued as allowed in the Agreement, effectively completing the work on June 30, 2019.

On December 23, 2019, the Labor Commissioner of the State of California, through the Department of Industrial Relations (DIR), sent Notice of Investigation (Case Number 40-68361-341) to the City as

notification that the DIR was conducting an investigation to determine if the Consultant and referenced project were in violation of the Public Work Laws. Based on the DIR labor classifications and wage rates and the timesheets with hours labored per day and per week, the additional wage compensation totaled \$73,876.61. The timesheets and calculations are on file and available for review in the Engineering and Capital Projects Department. City staff reviewed the additional compensation calculation and agrees with the amount of \$73,876.61. DIR is currently reviewing the project and upon final determination, wage rates and penalties may be assessed. As such, the contract amendment will authorize the City Engineer to pay additional wages and penalties found to be due and owing as a result of the DIR's investigation up to the amount allocated in the Council approved Capital Improvement Program Budget, SWR0287, SWR0306, and SWR0315.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any Council member, of any other fact that may constitute a bias for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

Approval of the resolution will result in no additional impact to the Sewer Facility Replacement Fund as enough funding is available in SWR0287, SWR0306, and SWR0315.

ONGOING FISCAL IMPACT

Tonight's action authorizes the additional contractual compensation amount of \$73,876.61 and authorizes the City Engineer to approve additional payments to Consultant based on findings from the California Department of Industrial Relations in the amount up to the amount allocated in the Council approved Capital Improvement Program Budget. There is no ongoing fiscal impact associated with the proposed action as the project account has adequate funding to fund the prevailing wage requirements.

ATTACHMENTS

1. Agreement
2. DIR Notice of Investigation
3. Amended Agreement

Staff Contact: Beth Gentry, Senior Civil Engineer