



Legislation Text

File #: 15-485, **Version:** 1

Staff Report for a Resolution Authorizing the City Manager to Negotiate and Approve Individual Change Orders Up to 10% of the Original Contract Amount; and Authorizing the City Manager to Negotiate and Approve Cumulative Change Orders up to 25% of the Original Contract Amount on Existing Construction Contracts with All Phase Excavation and Construction, American Asphalt, Chrisp Company, Columbia Electric, Conquest, DeSilva Gates, Flatiron Electric Group, Gallagher and Burk, McGuire and Hester, Ray's Electric, and S.J. Amoroso Construction Co., Inc.

SUMMARY AND RECOMMENDATIONS

Authorizes the City Manager or his designee to negotiate and approve change orders up to certain limits on specific existing construction contracts.

Staff recommends granting the City Manager or his designee the authority to negotiate and approve individual change orders and cumulative change orders as described.

BACKGROUND

Attached is a list of active contracts with outside firms for construction of capital improvements. Change orders to clarify the work or respond to atypical existing conditions are a normal aspect of public contracting and construction due to the nature of the work, as described below.

Existing conditions at each construction site are investigated during the project design phase. Because it is expensive to check every item and sample every material, representative samples are taken and records of previous construction at the site are reviewed. For each project, the effort and cost of site investigation during design is balanced against the risk and cost of finding unforeseen conditions during construction.

Plans and specifications that describe the work to be done on construction projects are extensive and complex; as a result there are diminishing returns on extensive and expensive efforts to make them perfect. Consequently, staff carefully limits the amount of detail and coordination effort written into the plans and specifications. The effort, cost, and duration of design is balanced with the cost of making adjustments to the work while in construction.

Additionally, the California Public Contract Code requires, subject to certain exceptions and specific provisions for other project delivery methods, that the City award contracts to the lowest responsive bid submitted by a responsible bidder. The practical effect of this legal requirement is that contractors often narrowly interpret the plans and specifications, which sometimes excludes work for which there is less than optimum written detail, or drawings. Moreover, the design-bid-build project delivery method is a competitive process, such that the same contractor is typically not used on every single project. This method has the practical effect of preventing public agencies from developing a relationship that might result in a contractor placing bids based on the design intent of the City as

project owner, instead of the precise language in the plans and specifications.

Analysis

On each construction project the City expects to find some unforeseen conditions that will change the scope of the work. Staff also expects that when the contractor installs the work, staff will find that some details on the plans need adjustment, and that the contractor will exclude work that staff intended the contractor perform from the bid based on a narrow interpretation of the contract documents. The cost to address these issues typically ranges from 5% to 25% of the original bid price provided they are addressed in a timely manner. Delaying work to negotiate and interpret these changes can cost thousands of dollars a day and can easily double the cost of the added work if issues aren't addressed immediately. On occasion the City receives favorable bids and therefore the Change Order limits allows the City to take advantage of the low cost and complete more work and also allows us to fully take advantage of available grant funds for a project.

In order to cover the cost of change orders necessary to resolve the conditions described above the City carries contingency funds on each project. The amount of contingency funds varies from 10% to 25% of the original bid depending on the complexity of the work and sensitivity of the work to unforeseen conditions. To harmonize fiscal internal controls, purchasing policies and procedures with the Municipal Code, the City Charter and State law, staff requests City Council delegation of authority to the City Manager to negotiate change orders. For the following projects, this action doesn't change their budgets or require any appropriations. Change orders will be limited not only by the percentage limits of the related resolution but also by the amount of funds appropriated to each project.

Authorizing the City Manager to negotiate and approve change orders will minimize delay on these projects and ensure that the scope of work is adjusted as needed to provide the highest quality project for the City.

Previous Actions

- On July 5, 2011, by Resolution No. 2011-132 the City Council awarded a contract for the Water Pollution Control Plant Rehabilitation project to S.J. Amoroso Construction Co., Inc.
- On November 11, 2012 by Resolution No. 2012-120 the City Council awarded a contract for the BART Downtown Pedestrian Interface project to Gallagher and Burk, Inc.
- On July 7, 2014 by Resolution No. 2014-068, the City Council awarded a contract for the Fiber Conduit of Broadband Network project to Flatiron Electrical Group, Inc.
- On April 6, 2015 by Resolution No. 2015-072 the City Council awarded a contract for the San Leandro Bikeway East Improvement project to Chrisp Company.
- On April 6, 2015 by Resolution No. 2015-073, the City Council awarded a contract for the Annual Street Sealing 2014-15 project to American Asphalt.
- On April 20, 2015 by Resolution No. 2015-082 the City Council awarded a contract for the

Fiber Loop City Hall to Main Library project to All Phase Excavating and Construction.

- On April 20, 2015 by Resolution No. 2015-083 the City Council awarded a contract for the Sanitary Sewer Line Replacement/Repair project to Con-Quest Contractors, Inc.
- On June 1, 2015 by Resolution No. 2015-102 the City Council awarded a contract for the West Juana Pedestrian Improvement project to McGuire and Hester.
- On June 15, 2015 by Resolution No. 2015-108 the City Council awarded a contract for the APS Upgrade 2012 project to Ray's Electric.
- On June 15, 2015 by Resolution No. 2015-109 the City Council awarded a contract for the Washington Ave at Monterey Blvd/Bradrick Dr Traffic Signal Modification project to Columbia Electric, Inc.
- On June 15, 2015 by Resolution No. 2015-110, the City Council awarded a contract for the Annual Overlay/Rehabilitation 2014-15 project to Gallagher and Burk, Inc.
- On July 27, 2015 by Resolution No. 2015-144 the City Council awarded a contract for the San Leandro Boulevard Rehabilitation (Williams St to Hudson Lane) project to DeSilva Gates Construction L.P.

Permits and/or Variances Granted

Permits required for each project are listed in the staff report for the award of the construction contract. Permits either have been obtained or will be obtained before construction begins.

Environmental Review

The results of Environmental review for each project is listed in the staff report for the award of the construction contract for that project. All notices have been filed and mitigations, if any, are incorporated into the work.

Summary of Public Outreach Efforts

A summary of public outreach done for each project is listed in the staff report the award of the construction contract for that project. No additional public outreach is planned as part of this action.

Budget Authority

The authorization and budget for each project is described in the staff report for the award of the construction contract for that project.

ATTACHMENT

- List of active construction contracts that will be subject to this action

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