

A G E N D A



Recommendation for Council Action (CMD)

Austin City Council

Item ID:

49860

Agenda Number

16.

Meeting Date:

September 17, 2015

Department:

Contract Management

Subject

Authorize execution of Change Order No. 2 to a construction contract with S.J. LOUIS CONSTRUCTION OF TEXAS, LTD., for the East 5th Street Chilled Water Piping Extension from San Jacinto to Red River Phase II Project in the amount of \$1,500,000 for a total contract amount not to exceed \$6,277,031.80.

Amount and Source of Funding

Funding in the amount of \$1,500,000 is available in the Fiscal Year 2014-2015 Capital Budget of Austin Energy.

Fiscal Note

A fiscal note is attached

Purchasing Language:

Original contract was awarded to S.J. Louis Construction of Texas, Ltd., on January 23, 2014 through a competitive Invitation for Bid solicitation process.

Prior Council Action:

January 23, 2014 – Original contract was awarded to S.J. Louis Construction of Texas, Ltd.

For More Information:

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Boards and Commission Action:

Related Items:

MBE / WBE:

This contract was awarded in compliance with City Code Chapter 2-9A Minority Owned and Women Owned Business Enterprise Procurement Program by meeting the goals with 3.37% MBE and 1.57% WBE participation to date.

Additional Backup Information

In January 2014, City Council approved a contract with S.J. Louis Construction of Texas, Ltd., to extend Austin Energy's chilled water transmission and distribution piping under 5th Street from San Jacinto Blvd. to Red River St. with the objective of providing increased hydraulic capacity to serve a growing number of new customers and improve overall operation, efficiency and reliability for all downtown chilled water customers.

The contractor began shaft and tunneling work in the right of way in June 2014 and began installing pipe within the tunnel in late November 2014. In January 2015, City staff discovered defective welds in the chilled water piping. The City investigated the extent of the defective welds and determined the entire chilled water piping was defective and that the work must be corrected. Both the City's contractor and testing consultant on this project are responsible for the City's damages. The contractor is responsible for the defective welds, but the testing consultant approved all of the welds as the contractor placed the pipe in the tunnel.

The contractor on this project, S.J. Louis Construction of Texas, agreed to be responsible for 50 percent of the costs to correct the defective work under a Reservation of Rights Agreement with the City dated August 12, 2015. Those costs have been estimated at approximately \$3,000,000. In order to expedite the completion of the work and protect the health and safety of the citizens of Austin and members of the traveling public, the City has agreed in the Reservation of Rights Agreement to cover the other 50 percent on a lump sum basis, subject to its recovery of damages against the testing consultant. A health and safety purchasing affidavit is included in the back-up to support the temporary increase of the contract amount above the statutory threshold of 25 percent. The streets will be impacted under the revised schedule for correction of the work until March 1, 2016.

The testing consultant, Professional Services Industries, has agreed in a Supplemental Amendment dated July 10, 2015, to provide testing services necessary to support the corrective work at its cost with the understanding that the City will seek to recover its remaining damages against the consultant. The City will demand the amount of \$1,500,000 for the proportionate cost of correcting the defective work against the consultant at mediation on September 16, 2015.

This matter is time sensitive due to the health and safety risks associated with maintaining an extended road closure in the right of way. For this reason, Public Works is requesting that Council move forward without a recommendation from a board or commission.

The Reservation of Rights Agreement was executed with the understanding that the City's full participation over the presently available Project funding is subject to further approval of the City Council and that such funding must be in place in order to fully correct the defective work.

Review by the Change Control Committee is not required because the change order is associated with correction of work as agreed to in the executed Reservation of Rights Agreement.

This project is located within zip code 78701(District 9) and is managed by the Public Works Department.

S.J. Louis Construction of Texas, Ltd. is located in Mansfield, Texas.