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**Title:** Approve Contract Change Order Numbers 9 & 10 pertaining to the large diameter water transmission main In northeast Fresno, Chestnut Avenue from Teague Avenue to Ashlan Avenue, Segment 1 (Council District 6)

**Sponsors:** Public Works Department

**Indexes:**

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**Attachments:** 1. 15-207 Proposed Change Order 9, 2. 15-207 Proposed Change Order 10, 3. 15-207 Report To the City Council

Date	Ver.	Action By	Action	Result
4/9/2015	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**April 9, 2015**

**FROM:** SCOTT L. MOZIER, PE, Director  
Public Works Department

**THROUGH:** ROBERT N. ANDERSEN, PE, Assistant Director  
Public Works Department, Construction Management Division

**BY:** PHILLIP TARVIN, Construction Manager  
Public Works Department, Construction Management Division

**SUBJECT**

Approve Contract Change Order Numbers 9 & 10 pertaining to the large diameter water transmission main In northeast Fresno, Chestnut Avenue from Teague Avenue to Ashlan Avenue, Segment 1 (Council District 6)

**RECOMMENDATIONS**

Staff recommends that the City Council:

1. Approve Contract Change Order Number 9 in the amount of \$198,475; and
2. Approve Contract Change Order Number 10 in the amount of \$150,000.

**EXECUTIVE SUMMARY**

During the course of the Construction Project, the Contractor, Floyd Johnston Construction, asserted two Claims against the City of Fresno to recover additional costs. The first Claim was for extra and/or unforeseen work in an original amount of \$305,634. In evaluating this Claim in accordance with the Extra Work provisions of the Contract, staff was able to validate cost reimbursement in the amount of \$198,475 as indicated in proposed Contract Change Order Number 9 (attached).

The second Claim was for additional cost associated to design changes instituted after award of the Contract in the amount of \$406,785. Staff was unable to reach an agreement with the Contractor in this matter and in accordance with the Contract and the matter was submitted for mediation. At the conclusion of the mediation process, a proposed settlement agreement was obtained to provide additional compensation to the Contractor in the amount of \$150,000. Because of the amount of each of the two claims, approval by the City Council is required.

## **BACKGROUND**

The Contract for this work identified as Segment 1 of Large Diameter Water Transmission Mains in Northeast Fresno was awarded to Floyd Johnston Construction Co., of Clovis, CA in the amount of \$5,393,798 on October 18, 2012. Soon after commencing the project, numerous obstacles were discovered which prevented installation of the new work as originally designed and bid. Project work was suspended for 116 working days to allow for a sizeable re-design of the work by the Consultant.

During construction, the Contractor made requests to be compensated for numerous items of reputed "Extra Work" due to unforeseen and/or differing conditions. Of the requests received, eleven (11) of the items were disputed by staff. These items became the basis of the Contractor's first Claim in the original amount of \$305,634. After evaluation by staff, only a portion of the original Claimed amount could be validated in conformance with the Contract. That amount validated was computed to be \$198,475 which was found acceptable to the Contractor and is reflected within proposed Contract Change Order No. 9.

The Contractor's second Claim asserted extra costs associated exclusively to the re-design discussed above in the original amount of \$406,785. Staff was unable to reach agreement with the Contractor as to the actual value of the work directly associated to the re-design and the issue was submitted to a Mediator as prescribed in the Contract. As a result of the mediation, an agreed amount to settle the issue was arrived at in the amount of \$150,000, contingent upon approval by the City Council. This amount is reflected in proposed Contract Change Order Number 10.

Also as a result of the mediation, the Design Consultant agreed to recompense the City in the amount of \$40,000 which reduces the City's contribution towards settling this issue to the net amount of \$110,000.

To summarize, the value of the two Claims asserted originally by the Contractor was \$712,420. Tentative agreements, pending City Council approval, are in place settling both issues in exchange for a total payment of \$348,475. After accounting for participation in the cost by the Design Consultant in the amount of \$40,000, the City's net cost is ultimately reduced to the amount of \$308,475 to settle both issues should both Contract Change Order Numbers 9 and 10 be approved by the City Council.

## **ENVIRONMENTAL FINDINGS**

City Council approved the Environmental Findings on October 28, 2012.

**LOCAL PREFERENCE**

N/A

**FISCAL IMPACT**

Please refer to attached report for Agenda Item 2 C, Council Meeting 10/18/12, Fiscal Impact Section, all funding sources remain as stated therein. Approval of these Contract Change Orders shall have no impact on the General Fund.

Attachments: Proposed Contract Change Order Number 9  
Proposed Contract Change Order Number 10  
Report to The City Council dated October 18, 2012