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Title: Actions pertaining to the Fulton Street Reconstruction Project construction contract with American Paving Company of Fresno, California (Council District 3)
1. Approve Contract Change Order No. 72, which decreases the contract amount by \$283,408.21
2. Approve Contract Change Order No. 73, which increases the contract amount by \$360,000.00

Sponsors: Public Works Department

Indexes:

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Attachments: 1. Change Order No. 72.pdf, 2. Change Order No. 73.pdf

Date	Ver.	Action By	Action	Result
3/21/2019	1	City Council	approved as amended	Pass

REPORT TO THE CITY COUNCIL

March 21, 2019

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

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Public Works Department, Engineering Division

SUBJECT

Actions pertaining to the Fulton Street Reconstruction Project construction contract with American Paving Company of Fresno, California (Council District 3)

1. Approve Contract Change Order No. 72, which decreases the contract amount by \$283,408.21
2. Approve Contract Change Order No. 73, which increases the contract amount by \$360,000.00

RECOMMENDATION

Staff recommends that City Council approve Contract Change Orders No. 72 and 73 with American Paving Company of Fresno, California for a total net increase in contract amount of \$76,591.79 for the Fulton Street Reconstruction Project.

EXECUTIVE SUMMARY

Fulton Street is now open to the public for all modes of transportation following the successful ribbon cutting ceremony on October 21, 2017. Even though the project has been open to the public, City staff has continued to work closely with American Paving Company on punch list corrections and contract clean-up items in an effort to wrap up the construction phase. Part of that contract clean-up is the negotiation and execution of necessary contract change orders. Change Orders No. 72 and 73 are the final contract changes and resolve all claims made by the Contractor and address the extra work items that were necessary to complete the job. The subject contract change orders are all within the established construction budget, which included contingencies for unforeseen items. No change in contract time is included in the subject contract change orders.

BACKGROUND

The Fulton Street Reconstruction Project improved the half mile stretch of Fulton Street between Tuolumne Street and Inyo Street. The pedestrian mall was completely removed and reconstructed with a complete streets design that included reintroducing two-way vehicular traffic on Fulton and the side streets of Merced, Mariposa, and Kern, with the exceptions that Kern between Fulton and Chuckchansi Park and Mariposa between Federal Alley and Van Ness remain pedestrian plazas.

Under City of Fresno Resolution 2017-158, multiple change orders, which aggregate more than 10% of the total contract price, shall be subject to prior authorization from City Council. On August 31, 2017, Council approved Contract Change Order No. 65, which brought the aggregate change order amount to 12.08% of the original contract amount. Approval of these contract change orders will bring the aggregate change order amount to \$2,777,884.01, equaling 13.98% of the contract amount following the large deductive Contract Change Order No. 1. The updated total contract amount including these change orders will be \$22,646,098.66.

The Fulton Street Reconstruction Project bid package FMR 02 included improvements to portions of the water and sewer infrastructure within the project limits. These improvements are funded by the Department of Public Utilities Enterprise Funds and by including them in this package the City benefited from the economies of scale versus making these improvements as a stand-alone project.

Contract Change Order No. 72, for a decreased contract amount of \$283,408.21, includes the final reconciliation of all bid items and prior contract change orders based on actual work performed. This reconciliation includes items from both FMR 01 (Public Works Transportation) and FMR 02 (Public Utilities) scopes of work. The detailed list of changes captures increases and decreases based on actual work performed, that results in a total net decrease in the contract price.

Contract Change Order No. 73, for an increased contract amount of \$360,000.00, is a total negotiated settlement amount for multiple scope changes and schedule delays due to weather, unforeseen conditions, underground utility impacts and underground basement impacts on both FMR 01 and FMR 02 work items. The accumulation of the various impacts resulted in schedule delays and increased costs in order to execute the scope of work. The Contractor requested compensation for items such as Project Management, Field Supervision, Office Expenses, Overtime and Traffic Control by filing a Notice of Intent to Claim. The City has worked with the Contractor to analyze the schedule impacts and the requested cost increases in order to justify the request. Ultimately, the City has found merit to most, but not all, of the schedule impacts and cost increases and reached an agreeable amount of \$360,000 to resolve all outstanding potential claims by the Contractor.

These change orders will be presented to the Construction Oversight Board on March 18, 2019. Staff will provide a verbal update to the Council on the outcome of the Construction Oversight Board discussion.

Staff recommends that City Council approve Contract Change Orders No.72 and 73 with American Paving Company of Fresno, California for a total increase in contract amount of \$76,591.79 for the Fulton Street Reconstruction Project. No change in contract time is included in the subject contract change orders.

ENVIRONMENTAL FINDINGS

By the definition set forth within California Environmental Quality Act (CEQA) Guidelines, section 15378, the approval of these Contract Change Orders does not qualify as a project for the purpose of CEQA.

LOCAL PREFERENCE

Local preference was not implemented because this change order is to an existing construction contract.

FISCAL IMPACT

These contract change orders have no impact to the General Fund and will be completely funded with contingency funds already included in the approved project budgets. Contract Change Order No. 72 will provide a deduct under the FMR 01 (Public Works Transportation) and FMR 02 (Public Utilities) scope. Contract Change Orders No. 73 will also be split between FMR 01 and FMR 02, but for a net increase. The FMR 01 (Public Works Transportation) scope is funded by the various Fulton Street Reconstruction funding sources, including the Federal Transportation Investment Generating Economic Recovery (TIGER), local Measure C Transit Oriented Development Funds, State Gas Tax funding, and contribution from the Downtown Fresno Partnership. The FMR 02 (Public Utilities) scope of the project is funded by Water and Wastewater Enterprise Funds.

Attachment:

Contract Change Order No. 72

Contract Change Order No. 73