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Title: Approve the Sixth Amendment to the Consultant Services Agreement with Live Oak Associates, Inc., to increase the fee amount by \$53,750 for a total amended contract amount of \$639,706; and to extend the agreement term from June 30, 2020 to October 31, 2021, for Biological Resources Monitoring Services relating the City of Fresno's Friant-Kern Canal Raw Water Pipeline project (Fresno County)

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: 1. Attachment 1 - Sixth Amendment to Agreement.PDF, 2. Attachment 2 - Fifth Amendment to Agreement.pdf, 3. Attachment 3 - Fourth Amendment to Agreement.pdf, 4. Attachment 4 - Third Amendment to Agreement.pdf, 5. Attachment 5 - Second Amendment to Agreement.pdf, 6. Attachment 6 - First Amendment to Agreement.pdf, 7. Attachment 7 - Consultant Services Agreement.pdf

Date	Ver.	Action By	Action	Result
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REPORT TO THE CITY COUNCIL

October 15, 2020

FROM: MICHAEL CARBAJAL, Director
Department of Public Utilities

THROUGH: BROCK D. BUCHE, PE, PLS, Assistant Director - UP&E
Department of Public Utilities - Utilities Planning & Engineering

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SUBJECT

Approve the Sixth Amendment to the Consultant Services Agreement with Live Oak Associates, Inc., to increase the fee amount by \$53,750 for a total amended contract amount of \$639,706; and to extend the agreement term from June 30, 2020 to October 31, 2021, for Biological Resources Monitoring Services relating the City of Fresno's Friant-Kern Canal Raw Water Pipeline project (Fresno County)

RECOMMENDATIONS

Staff recommends that City Council approve the Sixth Amendment to the Consultant Services Agreement (Agreement) with Live Oak Associates, Inc. (Consultant), to increase the total contract amount by \$53,750, from \$585,956, inclusive of a \$12,000 contingency, to \$639,706; and to extend the agreement term from June 30, 2020 to October 31, 2021, for Biological Resources Monitoring (Monitoring) services relating to the Friant-Kern Canal Raw Water Pipeline project (Project); and authorize the Director of Public Utilities or designee, to sign the Sixth Amendment on behalf of the City of Fresno (City).

EXECUTIVE SUMMARY

The Department of Public Utilities, recommends City Council approval of the Sixth Amendment to the Agreement with Consultant for Monitoring services necessary for remediation construction activities resulting conditions following the conclusion of the Project. Remediation construction activities are necessary to restore a minor segment of the Big Dry Creek Diversion Channel's (Channel's) east bank slope to pre-existing conditions as well as to allow for closeout of the Project. The Monitoring services ensure the City complies with rules and regulations in accordance with the requirements contained in the Incidental Take Permit issued by the California Department of Fish and Wildlife (CDFW), and the Biological Opinion issued by the US Fish and Wildlife Service (USFWS).

On April 21, 2016, the City Council approved the Agreement with the Consultant to provide Monitoring services for the Project for a total fee of \$384,956. On May 11, 2017, the City Council approved the First Amendment to the Agreement with an increase of \$191,000 for Monitoring services and additionally extended the agreement duration to October 31, 2017. Subsequent amendments two through five each consisted only of agreement duration extensions with the last extending the term to June 30, 2020. This Sixth Amendment will increase the Consultant's compensation and will extend the Agreement term to October 31, 2021, to allow for the necessary performance of the unforeseen additional Monitoring services duration.

BACKGROUND

Prior to the Project, the City's contracted United States Bureau of Reclamation Central Valley Project surface water traveled nearly 55-miles in open canals from Friant Dam to the Northeast Surface Water Treatment Facility (NESWTF). The Project constructed 5.6-miles of raw water pipeline, rerouting water directly to the NESWTF and eliminating nearly 47-miles from the conveyance distance. The Project traversed large segments of undeveloped land which serve as ideal locations for habitation of wildlife. Construction of the Project required Monitoring services to successfully meet the requirements of the CDFW and USFWS permits. The Water Division, not having qualified staff to implement the biological tasks, contracted with the Consultant for the required Monitoring services.

Following conclusion of the Project's construction activities, a major storm event caused erosion of a segment of the Channel's east bank slope in the vicinity of Foothill Lane. In order to conduct the necessary repairs, requirements of the Project's CDFW and USFWS permits are once again necessary to be met. As a matter of complying with permit requirements, staff has determined that the slope remediation construction activities will require additional Monitoring services and that the Consultant will need additional funds to complete the services. Additionally, an extension to the Agreement duration is necessary to account for delays by the awarded Contractor to meet contract

required bonds and insurance requirements. The delay caused by the construction contractor has pushed the construction activities beyond the Agreement completion date established with the Consultant in the Fifth Amendment.

Staff has negotiated an increase in compensation for services in the amount of \$53,750 inclusive of a contingency amount of \$12,000 and to extend the existing Agreement duration to October 31, 2021, for completion of services, which will be paid on a time and materials basis in conformance with requirements of the original Agreement. The services required by this Agreement will be completed in approximately 1,990 consecutive calendar days from the original date of authorization to proceed. The contract is for a not to exceed amount of \$639,706, paid on a time and materials basis.

The Attorney's Office has reviewed and approved as to form this Sixth Amendment to the Agreement. Upon approval by the City Council, the Sixth Amendment to Agreement will be executed by the Director of Public Utilities, or his designee.

ENVIRONMENTAL FINDINGS

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5), this is not a "project" for the purpose of CEQA, as this is an organizational or administrative action of the government to enforce an existing obligation, and will not result in a direct or indirect physical change in the environment.

LOCAL PREFERENCE

Local preference does not apply to this action because this is an amendment to an existing consultant services agreement.

FISCAL IMPACT

There is no impact to the General Fund. This Project is located in a portion of Fresno County. Funding for the contract is available in the Water Enterprise Fund 40101

Attachments:

- Attachment 1 - Sixth Amendment to Agreement
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