



## Legislation Details (With Text)

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|-----------------------|---|----------------------|---|--------------|--|
| <b>File #:</b>        | ID 23-473   | <b>Version:</b>      | 1 | <b>Name:</b> |  |
| <b>Type:</b>          | Action Item   | <b>Status:</b>       |   | Passed       |  |
| <b>File created:</b>  | 3/14/2023   | <b>In control:</b>   |   | City Council |  |
| <b>On agenda:</b>     | 3/30/2023   | <b>Final action:</b> |   | 3/30/2023    |  |
| <b>Title:</b>         | <p>Actions pertaining to the emergency repair of the North Avenue sewer trunk main (Council Districts 3, 5 and Fresno County):</p> <ol style="list-style-type: none"><li>1. Adopt a finding of Categorical Exemption pursuant to Class 1, Section 15301(b) (Existing Facilities) and Section 15301(d) (Restoration or Rehabilitation) of the California Environmental Quality Act Guidelines</li><li>2. ***RESOLUTION - Declaring an urgent necessity for the preservation of life, health, property and authorizing the City Manager or designee, to enter into agreements without advertised competitive bidding for the emergency repair of the North Avenue sewer trunk main (Requires 5 Affirmative Votes) (Subject to Mayor's Veto)</li><li>3. Approve a Third Amendment to the consultant services agreement with Carollo Engineers Inc., to increase the fee amount by \$180,500 for a total amended contract amount of \$394,990 inclusive of a \$22,000 contingency, revise the means of compensation language from Total Fee basis to Time and Materials, and extend the agreement term from March 31, 2023, to March 31, 2025</li></ol> |                      |   |              |  |
| <b>Sponsors:</b>      | Department of Public Utilities  |                      |   |              |  |
| <b>Indexes:</b>       |   |                      |   |              |  |
| <b>Code sections:</b> |   |                      |   |              |  |
| <b>Attachments:</b>   | 1. Attachment 1- Vicinity Map.pdf, 2. Attachment 2 - Collapse No. 2 Photos.pdf, 3. Attachment 3 - Resolution of Urgent Necessity.pdf, 4. Attachment 4 - Third Amendment to Agreement.pdf, 5. Attachment 5 - Second Amendment to the Agreement.pdf, 6. Attachment 6 - First Amendment to the Agreement.pdf, 7. Attachment 7 - Consultant Services Agreement.pdf, 8. Attachment 8 - Notice of Exemption.pdf   |                      |   |              |  |

| Date      | Ver. | Action By    | Action  | Result |
|-----------|------|--------------|---------|--------|
| 3/30/2023 | 1    | City Council | ADOPTED | Pass   |

## REPORT TO THE CITY COUNCIL

**FROM:** BROCK D. BUCHE, PE, PLS, Director  
Department of Public Utilities

**BY:** JESUS A. GONZALEZ, PE, Assistant Director  
Department of Public Utilities - Utilities Planning & Engineering

## SUBJECT

Actions pertaining to the emergency repair of the North Avenue sewer trunk main (Council Districts 3, 5 and Fresno County):

1. Adopt a finding of Categorical Exemption pursuant to Class 1, Section 15301(b) (Existing Facilities) and Section 15301(d) (Restoration or Rehabilitation) of the California Environmental Quality Act Guidelines
2. \*\*\*RESOLUTION - Declaring an urgent necessity for the preservation of life, health, property

and authorizing the City Manager or designee, to enter into agreements without advertised competitive bidding for the emergency repair of the North Avenue sewer trunk main (Requires 5 Affirmative Votes) (Subject to Mayor's Veto)

3. Approve a Third Amendment to the consultant services agreement with Carollo Engineers Inc., to increase the fee amount by \$180,500 for a total amended contract amount of \$394,990 inclusive of a \$22,000 contingency, revise the means of compensation language from Total Fee basis to Time and Materials, and extend the agreement term from March 31, 2023, to March 31, 2025

## RECOMMENDATIONS

Staff recommends that City Council adopt a finding of Categorical Exemption pursuant to Class 1, Section 15301(b) (Existing Facilities) and Section 15301(d) (Restoration or Rehabilitation) of the California Environmental Quality Act (CEQA) Guidelines; adopt a Resolution declaring an urgent necessity for the preservation of life, health, property and authorizing the City Manager or designee, to enter into agreements without advertised competitive bidding for the emergency repair of the North Avenue sewer trunk main (Emergency Repair); and approve a Third Amendment to the consultant services agreement with Carollo Engineers Inc., to increase the fee amount by \$180,500 for a total amended contract amount of \$394,990 inclusive of a \$22,000 contingency, revise the means of compensation language on from Total Fee basis to Time and Materials, and extend the agreement term from March 31, 2023, to March 31, 2025.

## EXECUTIVE SUMMARY

On February 24, 2019, the sewer trunk main in North Avenue experienced a localized structural collapse for which soil stabilization and placement of a temporary cover was contracted on an emergency basis. Concurrent to the repair, engineering consultant services were procured for design of a permanent solution. Following protracted permitting approval, the competitive bid process was able to proceed, and a construction Notice to Proceed was issued on March 21, 2022. Shortly following the start of construction activities, existing utility conflicts were identified and resulted in a May 13, 2022 suspension of contract time to allow for their relocations. On January 27, 2023, prior to the start of the conflicting utility relocations, the sewer trunk main experienced a second localized structural collapse that subsequently enlarged due to heavy rains.

A Declaration of Urgent Necessity is now necessary for the preservation of the health and safety of the surrounding area. The Resolution will allow the Department of Public Utilities (DPU) to procure services without advertising for competitive bids and enter into various agreements for performing the necessary emergency repair which is estimated at an amount not to exceed \$3,200,000. Additionally, a third amendment to the existing consultant agreement with Carollo (Third Amendment) is necessary for the continued design and construction support services and revisions to the scope of services.

## BACKGROUND

The existing sewer trunk main in North Avenue conveys an average of 11.5 million gallons of wastewater per day to the Regional Wastewater Treatment Facility. On February 24, 2019, the sewer trunk main experienced a localized structural collapse in the proximity of Union Pacific Railroad (UPRR) and Burlington Northern Santa Fe Railway (BNSF) facilities, approximately 0.2 miles west of

Maple Avenue. The collapse, which presents a risk to the health and safety of the community and the essential operations of the DPU, resulted in a June 13, 2019, Declaration of Urgent Necessity (Declaration). The Declaration authorized dispensing of the competitive bid process in order to expedite the procurement of contractor services for soils stabilization over the collapse area and installing a temporary cover.

With the temporary provisions in place, the DPU was allowed time to contract with an engineering consultant to design a permanent solution for the collapsed sewer trunk main, and on June 27, 2019, City Council approved an agreement (Consultant Agreement) with Carollo Engineers Inc., (Consultant) to provide the required services. The design prepared by the Consultant proposed the construction of a new segment of 66-inch diameter trunk main to the south of the existing sewer trunk main in North Avenue (Realignment Project). Upon completion of the Realignment Project, the collapsed trunk main segment was intended to be fully assessed to determine its repair or abandonment.

On September 25, 2019, the Consultant submitted plans for the Realignment Project to UPRR and BNSF in order to obtain design approval and necessary work area permits for the sewer main crossing within the railroad right-of-way. The permit agreement with UPRR was executed on June 12, 2020. However, the BNSF permit process continued nearly a year beyond that largely due to concerns relative to the Golden State Boulevard overpass footings. BNSF rejected multiple submittals citing adverse effects the proposed trenching methods may potentially have on the railroad's operations in proximity to the footings. Although the DPU paid additional fees to BNSF for expedited review, the delay in obtaining approval was also attributed to BNSF's lengthy response time to review each submittal. A permit agreement was ultimately executed with BNSF on June 8, 2021, approximately 21 months after the initial submittal.

The construction contract for the Realignment Project was awarded to Emmett's Excavation Inc., (Emmett's) on November 4, 2021, following a competitive bid process. The Notice to Proceed was issued to Emmett's on March 21, 2022. The first order of work required Emmett's to locate existing utilities within the project area to identify potential conflicts with the proposed improvements. It was then discovered that BNSF and CenturyLink Communications, LLC (Lumen) own utilities that conflict with the Realignment Project and that were not disclosed during the permitting process. The Consultant and the DPU engaged with BNSF and Lumen to coordinate the relocation of these utilities. Concurrently, the Consultant also analyzed options for redesigning the Realignment Project around the existing utilities. Having determined no viable options, the DPU ultimately pursued utility relocation agreements with BNSF and Lumen. In order to accommodate the utility relocations, the DPU issued a suspension of contract time to Emmett's on May 13, 2022, which currently remains in place.

On January 27, 2023, prior to the start of the utility relocations by BNSF and Lumen, the sewer trunk main experienced a second localized structural collapse that occurred adjacent to the original collapse location. Subsequently, on March 1, 2023, the second collapse area enlarged due to heavy rains. It has become evident that the structural failure of the remaining segment of the sewer trunk main is eminent, therefore it is necessary to expedite the assessment and repair of the collapsed segment of the sewer trunk main (Emergency Repair). An Urgent Necessity Resolution (Resolution) is now required to allow the DPU to procure services without advertising for competitive bids. The Resolution will allow DPU to enter into various agreements necessary for performing the Emergency Work including the installation of a sewer bypass facility, video inspections for assessing the feasibility of performing repairs, obtaining railroad permits, and the construction repair itself. The total

cost of the Emergency Repair is estimated at an amount not to exceed \$3,200,000 and is based on extensive DPU and Consultant communication with vendors, and research of the limited repair alternatives.

The Emergency Repair requires continued Consultant design and construction support services for which a third amendment to the existing Consultant Agreement (Third Amendment) is necessary. The Third Amendment also requires compensation for greater than anticipated Realignment Project construction support services consisting of submittal reviews of revised structures, coordination related to utility conflicts including extensive design alternatives exploration, and necessary construction support services through the end of the Realignment Project. Additionally, the Third Amendment requires a change to the Consultant Agreement compensation basis from Total Fee to Time and Material. The change is necessary to allow for improved planning of unforeseen activities between DPU and the Consultant and allows for adequate compensation for actual expended efforts. Under the current agreement language, compensation included in the Consultant Agreement is due in whole upon conclusion of all services and to date has been inadequate based on the complexity of the project. Lastly, the Third Amendment requires an extension of the Consultant Agreement term to allow for completion of the Realignment Project and Emergency Repair.

The First Amendment, executed on October 26, 2020, increased the compensation to \$214,490 and extended the Agreement term to December 17, 2021. The Second Amendment, executed on December 14, 2021, extended the Agreement term to March 31, 2023. The Third Amendment will increase the compensation amount by \$180,500, including a contingency amount of \$22,000, for a compensation amount of \$394,900 paid on a time and materials basis and extends the Agreement term to March 31, 2025.

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

## **ENVIRONMENTAL FINDINGS**

Staff has reviewed the scope and nature of the emergency repair and determined that it is CEQA exempt as it falls within Section 15301(b) (Existing Facilities) and 15301(d) (Restoration or Rehabilitation) of the CEQA Guidelines.

Pursuant to CEQA Guidelines Section 15378(b)(5), the approval of the Third Amendment 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 was not implemented because this award is being performed on an emergency basis. Additionally, local preference does not apply to the approval of the Third Amendment as it is an action to an existing agreement.

## **FISCAL IMPACT**

There is no impact to the General Fund. The Project is located in Council Districts 3, 5 and Fresno

County. Funding for this Project is included in the Fiscal Year 2023 capital improvement budget within the Wastewater Management Division, Sewer Enterprise Fund 40501.

**Attachments:**

- Attachment 1 - Vicinity Map
- Attachment 2 - Collapse No. 2 Photos
- Attachment 3 - Resolution of Urgent Necessity
- Attachment 4 - Third Amendment to the Agreement
- Attachment 5 - Second Amendment to the Agreement
- Attachment 6 - First Amendment to the Agreement
- Attachment 7 - Consultant Services Agreement
- Attachment 8 - Notice of Exemption