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Title: Approve the Second Amendment to the Plan Review and Construction Management Services Agreement, to extend the term of the agreement by three months from March 31, 2024 to June 30, 2024, with Tutor Perini/Zachry/Parsons, a Joint Venture. (Council Districts 1, 2 and 3)

Sponsors: Public Works Department

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Attachments: 1. 24-401 Original Agreement_TPZP, 2. 24-401 First Amendment_TPZP, 3. 24-401 Second Amendment_TPZP Extension, 4. 24-401 Vicinity Map HSR

Date	Ver.	Action By	Action	Result
3/21/2024	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

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

SUBJECT

Approve the Second Amendment to the Plan Review and Construction Management Services Agreement, to extend the term of the agreement by three months from March 31, 2024 to June 30, 2024, with Tutor Perini/Zachry/Parsons, a Joint Venture. (Council Districts 1, 2 and 3)

RECOMMENDATION

Staff recommends that the City Council approve the Second Amendment to the Plan Review and Construction Management Services Agreement with Tutor Perini/Zachry/Parsons, a Joint Venture (TPZP), in substantially the form attached, for no increase in cost to the current \$3,600,000 contract, extending the term of the agreement by three months to June 30, 2024, and authorize the Public Works Director or designee to execute the amendment on behalf of the City of Fresno (City).

EXECUTIVE SUMMARY

On November 3, 2022, the Council approved the First Amendment to the Plan Review and Construction Management Services Agreement, to increase the amount of the contract from \$1,800,000 to \$3,600,000, with TPZP for the City to continue providing plan review and construction management support services related to the California High Speed Rail Project. The First Amendment extended the term of the Agreement to March 31, 2024, which has allowed the City to continue providing services based upon the City's actual cost as opposed to billing TPZP for work

based upon the Master Fee Schedule (MFS). City staff has been working with TPZP and the Authority on an amendment to provide additional compensation associated with a time extension to December 31, 2026, but this more comprehensive amendment could not be developed prior to the current agreement's ending term of March 31, 2024. Sufficient funds are in place to provide for City plan review and inspections through June 30, 2024, and staff recommends the Council approve this Second Amendment while the more comprehensive negotiations for a Third Amendment are completed.

BACKGROUND

The California High Speed Rail Authority (CHSRA) awarded TPZP the Design-Build Construction Package 1 contract (CP1) in Fresno, which extends from north of the San Joaquin River to beyond American Avenue in the south. Under the Design-Build delivery method, the Contractor is responsible for both the engineering design and the physical construction. CHSRA has also made TPZP responsible for day-to-day construction inspections and a self-certification that all improvements have been constructed in accordance with the approved plans and specifications. Within the City of Fresno, CP1 includes a dozen railroad grade separation projects where the street will be rebuilt as either an overpass or underpass, several miles of a relocated Golden State Boulevard, numerous miles of rerouted sewer and water mains, more than 30 traffic signal installations or modifications and all associated facilities such as street lighting, curbs, gutters, sidewalks and landscaping.

In February 2016, the City Council approved the execution of a "lump sum" agreement with TPZP for \$1,900,000 to be used for City plan review and construction management services (the Lump Sum Agreement), which was terminated in September 2018. After the termination, TPZP was paying for City plan review and inspection services under the City's MFS, as adopted by the Council. Due to the large number of construction packages, using the MFS creates a considerable administrative effort for both parties to track and manage payments. The City of Fresno, like the vast majority of California cities, utilizes a percentage of the construction cost as the basis for the plan review and inspection fees. This also resulted in frequent discussions concerning the calculation of the permit fees. Lastly, the MFS is based upon City permit inspections of all newly constructed public infrastructure, not recognizing the role of TPZP's day-to-day inspection and certification, which is required under their contract with CHSRA.

In 2019, the City Council approved the execution of the Plan Review and Construction Management Services Agreement, for an amount of \$1,800,000, with TPZP for the City to continue providing plan review and construction management support services related to California High Speed Rail Project. The Agreement allowed the City to continue to provide City engineering plan review and approval, as well as a construction oversight role for City infrastructure. The Agreement also provides for ongoing monitoring of actual versus projected costs, on a monthly basis, and language providing for a contract amendment in the event that the level of City staff effort exceeds the amount of the agreement.

The First Amendment increased the Plan Review and Construction Management Services Agreement by an additional \$1,800,000, for a total increased contract amount of \$3,600,000, and extended the term of the agreement to March 31, 2024, which has allowed the City to continue providing services based upon the City's actual cost, as opposed to billing TPZP for work based upon the MFS.

The proposed action will approve the amendment in substantially the form attached. The City

Attorney's Office will need to review and approve the amendment as to form prior to execution by the City.

ENVIRONMENTAL FINDINGS

By the definition provide in the California Environmental Quality Act (CEQA) Guidelines Section 15378 this item does not qualify as a "project." .

LOCAL PREFERENCE

Local preference was not implemented as this action does not involve the bid or award of a construction or services contract.

FISCAL IMPACT

There will be no impact to the General Fund or any City operating funds associated with the recommended action. Sufficient funds are in place to cover City costs under the agreement through the new ending date of June 30, 2024.

Attachments:

- Original Agreement
- First Amendment
- Second Amendment
- Vicinity Map