



ANTONIO R. VILLARAIGOSA
Mayor

Commission
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RONALD O. NICHOLS
General Manager

January 30, 2013

The Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, California 90012

Honorable Members:

Subject: Authorizes Execution of Contract No. 7042 (Amendment No. 1) with Griffith Company

Pursuant to Charter Section 373, enclosed for approval by your Honorable Body is Resolution No. 013 163, adopted by the Board of Water and Power Commissioners on January 25, 2013, approved as to form and legality by the City Attorney, which authorizes execution of Contract No. 7042 (Amendment No. 1) for the construction of Van Norman Chloramination Station Nos. 1 and 2 with Griffith Company for a 26-month extension. As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager of Intergovernmental Affairs and Community Relations, at (213) 367-0025.

Sincerely,

Barbara E. Moschos
Board Secretary

BEM:oja

Enclosures: LADWP Resolution
Board Letter
CAO Report
Amendment No. 1 to Contract No. 7042

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



c/enc: Mayor Antonio Villaraigosa
Councilmember Jose Huizar, Chair, Energy and the Environment Committee
Gerry F. Miller, Chief Legislative Analyst
Miguel A. Santana, City Administrative Officer
Rafael Prieto, Legislative Analyst, CLA
William R. Koenig, Chief Administrative Analyst
Winifred Yancy

RESOLUTION NO. 013 163

WHEREAS, Contract No. 7042, for the construction of Van Norman Chloramination Stations Nos. 1 and 2 (VNCS 1 & 2) Project was awarded by the Board of Water and Power Commissioners on May 6, 2008; and

WHEREAS, although major construction was completed within the three-year LADWP Board authority per the City of Los Angeles (City) Administrative Code Section 10.5, a time extension is needed to allow payment for finalizing the VNCS 1 & 2 Project including punch list corrections, operational testing and commissioning of both stations, additional work to comply with operational needs, negotiation of all remaining change orders and claim resolution; and

WHEREAS, all negotiations have been completed and final agreement has been reached for additional work performed and any impacts thereof; and

WHEREAS, Amendment No. 1 to Contract No. 7042 with Griffith Company (GC) is necessary to extend the contract by 26 months to May 15, 2013; and

WHEREAS, a 26-month contract extension of time is beyond the 3-year authority of this Board and, therefore, requires the approval of the City Council, pursuant to City Charter Section 373 and City Administrative Code Section 10.5.

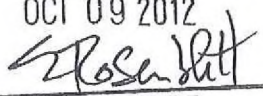
NOW, THEREFORE, BE IT RESOLVED, that Amendment No. 1 to Contract No. 7042 is approved as to form and legality by the City Attorney and on file with the Secretary of the Board.

BE IT FURTHER RESOLVED, that the President or Vice President of the Board, or the General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board be and they are hereby authorized, empowered, and directed to execute said Amendment for and on behalf of LADWP.

BE IT FURTHER RESOLVED, that the Chief Accounting Employee of the LADWP, upon proper certification, is authorized and directed to draw demands on the Water Revenue Fund in payment of the obligations arising under said Agreement.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held JAN 25 2013

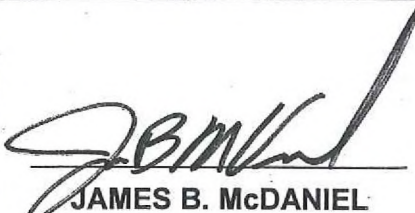


APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

OCT 09 2012
BY 
ERIC ROSENBLATT
DEPUTY CITY ATTORNEY


Secretary

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LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: January 17, 2013
 JAMES B. McDANIEL Senior Assistant General Manager - Water System		SUBJECT: Amendment No. 1 to Contract No. 7042 Construction of Van Norman Chloramination Stations Nos. 1 and 2 Recommended for Amendment To: Griffith Company Santa Fe Springs, California
 RONALD O. NICHOLS General Manager		
 GARY WONG Assistant General Manager - Systems Support Division		FOR COMMISSION OFFICE USE: RESOLUTION NO. <u>013 163</u> JAN 25 2013
CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	IF YES, BY WHICH CITY CHARTER SECTION: 373	

Amendment to Existing Contract

PURPOSE

The attached Resolution recommends approval of Amendment No. 1 to Contract No. 7042 with Griffith Company (GC), to grant a 26-month extension to the current contract time for the Construction of Van Norman Chloramination Stations Nos. 1 and 2 (VNCS 1 & 2) Project.

Amendment No. 1 is necessary to accommodate the payment of the final change order for the VNCS 1 & 2 Project and for closure of the construction contract.

The additional 26-month period extends the contract duration beyond the three-year authority of the Board of Water and Power Commissioners (Board) and, therefore, requires the approval of the City of Los Angeles (City) Council pursuant to the City Charter Section No. 373 and City Administrative Code No. 10.5.

COST AND DURATION

No additional funding is being requested. The contract maximum amount of \$37,766,023, which included a 15-percent contingency, will remain the same as originally awarded.

The current contract completion date of March 21, 2011 will be extended by 26 months to May 15, 2013. This time extension accommodates the operational testing and commissioning of both Stations Nos. 1 and 2, additional work to comply with the facility operational needs which are now completed, and the change order negotiation and claim resolution needed to close the contract.

There is no impact on the City's General Fund.

BACKGROUND

On May 6, 2008, the Board awarded Contract No. 7042 to GC for a contract amount of \$32,840,020 plus a 15-percent contingency of \$4,926,003 for a total contract amount of \$37,766,023. The original completion date was February 2, 2010.

The VNCS 1 & 2 Project involves the construction of two chemical treatment plants to add ammonia and chlorine to potable water to create chloramine disinfectant. The Project is part of LADWP's plan to convert from chlorine-based disinfection to chloramine-based disinfection to comply with the United States Environmental Protection Agency's regulations, Stage 2 Disinfectants and Disinfection Byproducts Rule.

LADWP has authorized a total of nine change orders equaling \$2,439,346.63 to fund additional work due to differing site conditions; errors, omissions, additional regulatory requirements, etc. These authorized change orders have extended the contract date to March 21, 2011.

The main construction of VNCS 1 & 2 Project was completed within the three-year Board authority for the project. However, additional time was needed to perform punch list corrections, operational testing and commissioning of each station, and to negotiate and resolve all remaining proposed change orders and potential claims. During this time of negotiations, GC received a subcontractor claim from its electrical subcontractor, Morrow-Meadows Corporation. LADWP had to wait for the resolution of this subcontractor's claim before LADWP could finalize all agreements and close the contract with GC.

LADWP and GC have currently completed all negotiations and reached final agreement on all additional work performed and any impacts thereof. The subcontractor claim has also been mediated and settled by GC.

LADWP proposed to issue one final Change Order No. 10 for \$2,016,464.97 with a 26-month time extension to memorialize the final agreement. This final change order amount results in a final contingency expenditure of 13.6 percent, within the original Board-approved contingency for the project.

The proposed Amendment No. 1 with the 26-month time extension will provide LADWP the necessary means to issue the final change order, make final payment, and close the contract for VNCS 1 & 2 Project.

Per City Charter Section 373, Los Angeles City Council approval is required. Accordingly, attached is the signed City Administrative Officer Report dated January 9, 2013.

METHOD OF SELECTION

Competitive Cooperative Purchase Sole Source Single Source

M/W/OBE SUBCONTRACTING PARTICIPATION

GC was awarded this contract with the following goals based on the original contract amount: an MBE Goal of \$2,098,350.00 (6.39 percent), a WBE Goal of \$5,935,360.00 (18.07 percent), and an OBE Goal of \$2,698,680.00 (8.22 percent).

Currently, 8.14 percent of the payments to date to the Contractor have been subcontracted to the approved MBE companies and 18.08 percent of the payments have been subcontracted to the approved WBE companies. In addition, 7.93 percent of the current expenditures have been paid to OBE companies. The contract is expected to meet all participation goals. A summary of the MBE and WBE payments is as follows:

MBE Subcontracting:

Company Name	Brief Description of Work	Original MBE Goal	Spent Dollar Amount
Exbon Development	Roofing, Flashing	\$ 569,850.00	\$ 648,449.00
Sudhakar Company International	Striping, Signs	\$ 2,500.00	\$ 0.00

Company Name	Brief Description of Work	Original MBE Goal	Spent Dollar Amount
CPR Trucking	Trucking	\$ 55,000.00	\$ 147,698.00
Tejada Trucking	Trucking	\$ 176,000.00	\$ 176,000.00
Christian Brothers	HVAC	\$ 345,000.00	\$ 383,141.00
Valverde Construction	Sewer, Pipeline	\$ 950,000.00	\$ 1,462,435.00
Total:		\$ 2,098,350.00	\$ 2,817,723.00

WBE Subcontracting:

Company Name	Brief Description of Work	Original WBE Goal	Spent Dollar Amount
Morrow Meadows	Electrical	\$ 5,751,000.00	\$ 6,169,291.00
Ace Fencing/APW Construction	Fence	\$ 184,360.00	\$ 86,250.00
Total:		\$ 5,935,360.00	\$ 6,255,541.00

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the construction of VNCS 1 & 2 is exempt pursuant to the General Exemption described in CEQA Guidelines Sections No. 15061(b)(3). General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment.

RECOMMENDATION

It is recommended that your Honorable Board adopt the attached Resolution recommending the Los Angeles City Council's approval of Amendment No. 1 to Contract No. 7042.

CN:jmp

Attachments

e-c/att: Ronald O. Nichols
Richard M. Brown
Aram H. Benyamin
James B. McDaniel
Gary Wong

Philip Leiber
Gwendolyn W. Williams
Glenn C. Singley
Susan R. Rowghani
Charles Ngo

0150-09879-0000

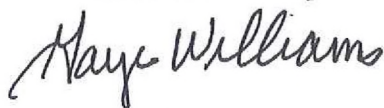
TRANSMITTAL

TO Ronald O. Nichols, General Manager Department of Water and Power	DATE JAN 09 2013	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT	

**PROPOSED AMENDMENT No. 1 AGREEMENT 7042 BETWEEN DWP
AND THE GRIFFITH COMPANY FOR CONSTRUCTION OF
VAN NORMAN CHLORAMINATION STATIONS NO. 1 AND NO. 2**

Approved and transmitted for further processing including Council consideration.
See the City Administrative Officer report attached.

MAYOR -



MAS:OAV:10130066T

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: December 19, 2012

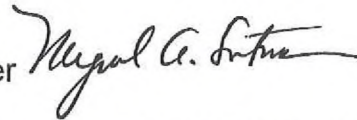
CAO File No. 0150-09879-0000

Council File No.

Council Districts: Citywide

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Transmittal from the Department of Water and Power dated October 16, 2012; referred by the Mayor for report on November 7, 2012

Subject: **AMENDMENT NO. 1 TO AGREEMENT NO. 7042 BETWEEN THE DEPARTMENT OF WATER AND POWER AND GRIFFITH COMPANY FOR THE CONSTRUCTION OF VAN NORMAN CHLORAMINATION STATIONS NO.1 AND NO.2**

SUMMARY

The Department of Water and Power (DWP; Department) requests approval of the proposed Resolution that authorizes the execution of Amendment No. 1 to Agreement No. 7042 between the DWP and Griffith Company (GC) for the construction of Norman Chloramination Stations (VNCS) No. 1 and No. 2. Amendment No. 1 extends the term of the Agreement by 26 months from March 21, 2011 to May 15, 2013; however, it does not increase the contract limit of \$37,766,023. In accordance with Charter Section 373 and Los Angeles Administrative Code (LAAC) Section 10.5, Council approval is required because the term exceeds three years. The City Attorney advises that although the Agreement expired in 2011, authority to amend it for the administrative purposes of closing out the contract is provided under LAAC 10.5(b)(2) and has approved the proposed resolution and Amendment as to form and legality. If both parties to the original contract agree by amendment (and such amendment is approved by the Council as the body in authority), the original contract expiration date may be extended out to a new date. As long as the amendment reaches back retroactively such that there is no gap in time created in the new contract period during which the contract was left inactive, then the original contract, as amended, would never have been considered to have expired.

DWP states that the project was completed within the original three year contract term. However, an additional 26-month Agreement extension is required to accommodate the operational testing and commissioning of both stations, additional work to comply with the facility operational needs, which are now completed, the change order negotiations with the sub-contractor and claim resolution needed to close the Agreement including final payment.

Background

On May 8, 2008 the Board of Water Power Commission (Board) approved Agreement No. 7042 in the amount of \$37,756,023 for the construction of two chemical treatment plants to add ammonia and chlorine to potable water to create chloramine disinfectant at the (VNCS) stations No. 1 and No. 2. The project is part of DWP's plan to convert from chlorine-based disinfection to chloramine-based disinfection to comply with the United States Environmental Protection Agency's regulations, Stage 2 Disinfectant and Byproducts Rule.

The main construction of the VNCS No. 1 and No. 2 Project was completed within the three-year Board authority for the project. However, additional time was needed to perform corrections, operational testing and commissioning of each station and resolve all remaining potential claims. In addition, subsequent to the expiration date, GC's electrical subcontractor, Morrow-Meadows Corporation, submitted a claim. DWP had to wait for the resolution of the subcontractor's claim before finalizing the Agreement and making the final payment. All issues have now been resolved and payment is due. The Agreement can be closed. The City Attorney has advised that LACC 10.5(b)(2) permits an expired contract to be amended for the administrative purpose of closing out a contract if approved by the City Council. Applying the City Attorney opinion to the proposed Agreement Amendment No. 1, the Agreement term may be extended, without any additional funds requested, to a date which would allow sufficient time to make the final negotiated payments. Once that is accomplished, the project can be closed out and the contract allowed to terminate on the new terms.

Although DWP has stated that the delays in negotiation with the subcontractor contributed to the expiration of the Agreement, the Amendment could have been processed to avoid the lapse of expiration date. This office recommends that DWP review their contract management procedures, especially monitoring ongoing payments to existing contractors in order to avoid any similar issues in the future.

CONTRACTING COMPLIANCE

The City Attorney has approved the proposed resolution and Agreement as to form and legality. The Agreement is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the General Exemptions described in Section 15061(b)(3) of the Los Angeles City CEQA Guidelines. In accordance with Charter Section 1022, it has been determined the work specified in the Agreement can be performed more economically and feasibly by Independent Contractors than by City employees. Pursuant to Charter Section 373 and Los Angeles Administrative Code Section 10.5, Council consideration of this Agreement is required because the term exceeds three years. The subcontracting participation level consists of MBE- 6.39 percent; WBE – 18.07 percent and an OBE- 8.22 percent. The Agreement is expected to reach all participation goals.

RECOMMENDATION

That the Mayor:

1. Approve the proposed Resolution which authorizes the execution of Amendment No. 1 to Agreement No. 7042 between the Department of Water and Power and Griffith Company for the construction of Norman Chloramination Stations (VNCS) No. 1 and No. 2. Amendment No. 1 extends the term of the Agreement by 26 months from March 21, 2011 to May 15, 2013;
2. Request DWP review their contract management program procedures to avoid the expiration of Agreements before all work, payments and closeout procedures have been completed; and,
3. Return the proposed resolution to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of this request extends the term of the Agreement by 26 months from March 21, 2011 to May 15, 2013; however, it does not increase the contract limit of \$37,766,023 from the Water Revenue Fund; however, there is no impact on the City's General Fund. This Agreement and the Amendment is consistent with the DWP Financial Policies which are not applicable.

TIME LIMIT FOR COUNCIL ACTION

Pursuant to Charter Section 373, "Long Term Contracts Approved by Council," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than three years within 60 days after submission to Council, the contract shall be deemed approved.

MAS:OAV:101030066

**AMENDMENT No. 1 TO
CONTRACT No. 7042
BETWEEN
THE CITY OF LOS ANGELES
DEPARTMENT OF WATER AND POWER
AND
GRIFFITH COMPANY**

THIS AMENDMENT NO. 1 to Contract No. 7042 is made and entered into by and between the City of Los Angeles, a municipal corporation, acting by and through the Los Angeles Department of Water and Power (LADWP) and Griffith Company (Griffith).

WITNESSETH

WHEREAS, LADWP and GRIFFITH entered into Contract No. 7042 (Contract) for the construction of Van Norman Chloramination Stations No. 1 and No. 2, awarded through competitive process by the Board of Water and Power Commissioners on May 6, 2008; and

WHEREAS, the Contract requires the project work to be completed by March 21, 2011, subject to time extensions as provided in the Contract; and

WHEREAS, the construction has been completed to date, but time extension is needed due to operational testing and commissioning of both stations, additional work to comply with operational needs, change order negotiation, and claim resolution; and

WHEREAS, LADWP has determined that it is necessary to amend the Contract for the purpose of extending the Contract for up to an additional twenty-six (26) months in accordance with Los Angeles Administrative Code Section 10.5(b)(2); and

WHEREAS, LADWP has determined that Amendment No. 1 is necessary and proper for the completion of construction activities authorized under the Contract; and

WHEREAS, Griffith is executing Amendment No. 1 with the express understanding that the Amendment to extend the contract is solely for the aforementioned completion activities, and not otherwise, waive, change or modify any other contractual requirements Griffith has under the Contract; and

WHEREAS, Griffith acknowledges that the extension of the Contract period provided by this Amendment in no way entitles Griffith to extensions of time unless approved by change order pursuant to the original terms and conditions of Contract No. 7042.

NOW, THEREFORE, LADWP and GRIFFITH agree to amend Contract No. 7042 as follows:

AMENDMENT

1. Subsection (3)(a) of Section F1A of Part F, Division F1, Time of Completion, is amended to add twenty-six (26) months to the current authorized Contract completion date of March 21, 2011 and shall read as follows:

All work under the contract shall be completed within 540 calendar days after the Notice to Proceed date of August 11, 2008, or within such extensions of time as may be granted, and not later than May 15, 2013; subject to the termination provisions of the Contract.

2. Except as expressly provided herein, all other terms, conditions, deadlines and milestones of Contract No. 7042 shall remain in full force and effect.
3. This Amendment No. 1 is executed in three (3) duplicate originals, each of which is deemed to be an original. This Amendment consists of four (4) pages.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to Contract No. 7042 to be executed by their authorized representatives on the day and year written below.

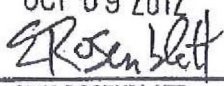
DEPARTMENT OF WATER AND POWER
OF THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

By: _____
RONALD O. NICHOLS
General Manager

Date: _____

And: _____
BARBARA E. MOSCHOS
Secretary

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

OCT 09 2012

BY _____
ERIC ROSENBLATT
DEPUTY CITY ATTORNEY

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to Contract No. 7042 to be executed by their authorized representatives on the day and year written below.

GRIFFITH COMPANY

By: Thomas L Foss
THOMAS L. FOSS
President

Date: 1/7/2013