



BOARD OF DIRECTORS

Agenda Report

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

File #: 2022-2663

Agenda Date: 12/15/2022

Agenda Item No: 28.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

NEWHOPE-PLACENTIA TRUNK SEWER REPLACEMENT, PROJECT NO. 2-72B & 2-72C

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Receive, file, and deny the claim submitted by OHL USA, Inc. (OHL) dated November 22, 2022 for Newhope-Placentia Trunk Sewer Replacement, Project Nos. 2-72B and 2-72C.

BACKGROUND

Orange County Sanitation District (OC San) awarded a Construction Contract to OHL for Newhope-Placentia Trunk Sewer Replacement, Project Nos. 2-72B and 2-72C, in May 2018. During construction, OHL submitted several change orders. While OC San accepted most of these, some were rejected. OHL has now submitted a claim based on the rejected change orders.

RELEVANT STANDARDS

- Ensure the public's money is wisely spent

PROBLEM

OHL has submitted a claim under the Government Code. The claim is without merit.

PROPOSED SOLUTION

Deny the claim submitted by OHL.

TIMING CONCERNS

Denial of a Government Code claim, and notice thereof, triggers the running of the statute of limitations.

RAMIFICATIONS OF NOT TAKING ACTION

The statute of limitations will be longer.

PRIOR COMMITTEE/BOARD ACTIONS

October 2021 - Approved a contingency increase \$1,164,840 (2%) to the construction contract with OHL for Newhope-Placentia Trunk Sewer Replacement, Project Nos. 2 72B and 2-72C, for a total construction contingency of \$6,989,040 (12%).

April 2021 - Approved a contingency increase of \$2,038,470 (3.5%) to the construction contract with OHL for Newhope-Placentia Trunk Sewer Replacement, Project Nos. 2-72B and 2-72C, for a total construction contingency of \$5,824,200 (10%).

May 2018 - Awarded a construction contract with OHL for Newhope-Placentia Trunk Sewer Replacement, Contract Nos. 2-72B & 2-72C, for a total amount not to exceed \$58,242,000, and approved a contingency of \$3,785,730 (6.50%).

ADDITIONAL INFORMATION

All construction work is complete. Staff participated in a formal dispute resolution process provided in the Public Contract Code to resolve the Contractor’s claims.

CEQA

The project is included in the Addendum to the “1999 OCSD Strategic Plan” Program Environmental Impact Report, State Clearinghouse No. 2006101018.

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San’s Purchasing Ordinance. This item has been budgeted (Adopted Budget, Fiscal Years 2020-2021 and 2021-22, Section 8, Page 19,) and the budget is sufficient for the recommended action.

<u>Date of Approval</u>	<u>Contract Amount</u>	<u>Contingency</u>
04/21/2018	\$58,242,000	\$3,785,730 (6.5%)
04/28/2021 10/27/2021		\$2,038,470 (3.5%) \$1,164,840 (2%)

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Claim