



## Agenda Report

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**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](http://www.ocsan.gov)) with the complete agenda package:

- Claim