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DATE: September 18, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Dan Herrera, PE, Deputy Director of Operations, Public Works and Utilities (PW&U)  
Gina Benedetti-Petnic, PE—Assistant Director, PW&U  
Christopher J. Bolt, MPA, PE, CPM, ICMA-CM, Director, PW&U

SUBJECT: Resolution Awarding Construction Contract for the Oak Hill Municipal Well Project (C67501611) to Well Industries Inc. and Rejecting NorCal Pump's Bid Protest

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached resolution awarding construction contract for the Oak Hill Municipal Well Project (C67501611) to Well Industries, Inc.

### **BACKGROUND**

The Restructured Agreement for Water Supply between the City and Sonoma Water establishes a local water production capacity goal for Petaluma. The City has agreed to maintain the ability to deliver up to 40% of the maximum monthly water demand in case of an emergency or drought, which is approximately 4 million gallons per day (mgd), or 2,800 gallons per minute (gpm). To meet that goal, a project in the City's Capital Improvement Program (CIP) project number C67501611 was created for well construction and repair to improve and maintain the City's groundwater well system.

The City has recently completed two wells to make progress in meeting Sonoma Water's water production capacity goal. The Park Place and Willowbrook wells were completed and put into operation in 2016. These wells are located on the eastern side of Petaluma and connect to Zone 1 of the City's water distribution system. These two wells can provide approximately 600 gpm, which is approximately 8% of the summertime demand. Upon completion of the two wells, the City established another CIP project to identify and construct additional wells to progress in meeting Sonoma Water's local water production capacity goal.

In 2019, the City contracted with West Yost Associates to provide a well siting study to assist in identifying potential groundwater well locations throughout the city. The well-siting study considered the following parameters to establish potential priority sites: City-owned parcels,

distance to the water distribution network, distance to existing utilities, potential groundwater aquifer yield, potential water quality issues, and locations west of the Petaluma River. As a result of this study, three potential sites were identified for future groundwater wells: Oak Hill, Magnolia Open Space, and Paula Lane.

In 2021, West Yost Associates prepared a technical memorandum (TM) evaluating and ranking the three potential sites for the City's next groundwater well project. The TM used the following criteria to rank the groundwater well locations: site constraints, construction costs, operation and maintenance requirements, infrastructure modifications, and life cycle costs. Based on the evaluation of these criteria, West Yost's TM recommended the Oak Hill site for the City's next groundwater well location.

After the selection of the preferred site, the City contracted with West Yost Associates and GHD to provide design services and prepare documents necessary for compliance with the California Environmental Quality Act (CEQA). At the June 20, 2022, City Council meeting, a public hearing was held to adopt a mitigated negative declaration (MND) and mitigation monitoring and reporting program (MMRP) and approve the project. At this time, staff received several public comments from residents adjacent to the project property expressing concern for the project. City Council expressed a desire for staff to perform more public outreach for the project and voted to continue the item to a date certain of August 1, 2022, to allow for additional public comment. Staff determined the best date for the public outreach meeting was August 11, 2022, in order to allow for preparation and ensure proper notification for all residents in the area. At the August 1, 2022, City Council meeting, City Council voted to continue the item to a date certain of September 12, 2022, to allow for the public meeting. On August 11, 2022, staff held a public meeting at Oak Hill to allow for additional public comments on the project.

At the September 12, 2022, City Council meeting, the Council approved the Oak Hill Project and adopted the MND and MMRP, allowing the project to continue through design and completion. In the Fall of 2022, Sonoma County issued a moratorium on all well-drilling projects until April 2023 to evaluate the environmental impacts of well-drilling operations and adjust permitting requirements. In May of 2023, Sonoma County lifted the well drilling moratorium allowing for well drilling permits to be issued. Once the moratorium was lifted, staff began efforts to complete the construction documents. On June 1, 2023, staff held a public informational meeting to provide updates to the residents in the vicinity of the project.

## **DISCUSSION**

The construction plans and specifications were prepared by engineering staff and a Notice Inviting Bids was advertised on Friday, July 28, 2023. On August 17, 2023, the following bids were received:

<u>Name of Bidder</u>	<u>Base Bid</u>
Well Industries Inc.	\$558,515.00
NorCal Pump	\$750,178.00
Weeks Drilling	\$779,185.00
<b>Engineers Estimate</b>	<b>\$550,000.00</b>

The lowest responsible and responsive bidder, Well Industries, Inc. from Chico, CA was formed in 2002 and has performed similar projects throughout California, including Discovery Bay, City of Orland, City of Roseville, Hillmar Water District, Sacramento Suburban Water District, and Santa Barbara County. Well Industries, Inc. possesses a valid Class C57 California Contractor's License, #812678, which allows them to perform the work. It is recommended that the Council adopt the resolution awarding the contract to K.J. Woods Construction, Inc. in the amount of \$558,515.00.

NorCal Pump submitted a protest letter to the City, claiming that the Well Industries and Wild Heron Drilling's bids were unresponsive, (See Attachment 3, NorCal Pump's protest letter) The City's discretion to waive inconsequential informalities or irregularities is well established under California law, "[I]t is further well-established that a bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given the bidder an advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential." (*Bay Cities Paving & Grading, Inc. v. City of San Leandro* (2014) 223 Cal.App.4th 1181, 1188 ("*Bay Cities*").) As stated in greater detail in the City's Response Letter, Attachment 4 and Well Industries Response Letter, Attachment 5, the three alleged deficiencies are not meritorious.

NorCal's protest letter alleges three deficiencies in Well Industries Inc's. bid. 1.) That Well Industries is not responsible 2.) That Well Industries did not notarize the Site Visit Affidavit and 3.) That Well Industry did not provide the Statement of Qualifications within 24 hours of being found the apparent low bidder.

1. In regards to allegation 1.), Well Industries (WII) has provided information on projects from 2008 to 2023 showing multiple public works well drilling projects ranging from \$101,000 to \$618,000. Additionally, City staff contacted the awarding bodies for work that WII performed, who attested to satisfactory quality and completion of projects. Moreover, WII maintains all the required licenses to perform the project. This demonstrates WII's ability to perform the Project work, and therefore WII is found to be responsible.
2. In regards to allegation 2.), the Site Visit Affidavit does not bind the signer and its purpose is to ensure that a contractor has visited the location of the Project and can ask questions related to location. While the document was not notarized it was signed by a representative of WII. Whether or not WII Notarized the Site Visit Affidavit does not provide WII an advantage nor is there any evidence that this disadvantaged any of the other bidders.
3. In regards to allegation 3.) , the Statement of Qualifications only required, "The apparent low Bidder shall submit a Statement of Qualifications as specified herein as a submittal to the City within 24 hours of the bid opening." Not providing this information timely is not a material deviation because it was only a requirement on the low bidder and not the other bidders, and therefore it could not have benefited WII or prejudiced the other bidders.

As Well Industries is responsible and because the alleged defects in their bid were immaterial, staff are recommending that the City Council reject NorCal Pump's protest and award to WII as the low bidder.

Construction is scheduled to begin in Fall 2023 and be completed by Spring 2024. Construction management and inspection services will be conducted by city staff with assistance from outside consultants for quality assurance/quality control (QA/QC) testing services.

### **PUBLIC OUTREACH**

Public outreach for the project includes publishing the notice of availability in the Argus-Courier as well as providing downloadable links to the IS/MND on the City's CIP and project websites: <https://cityofpetaluma.org/documents/oak-hill-well-initial-study-mitigated-negative-declaration/> <https://cityofpetaluma.org/oak-hill-well-project/>. Staff also prepared FAQs on the project website to address public comments received for the project. On August 11, 2022, staff held a public meeting at the Oak Hill site to meet with neighborhood residents and address their concerns. On June 1, 2023, staff held a virtual public meeting providing project updates.

Before construction begins, and during construction, staff will notify residents in the area of the project and solicit feedback for input regarding the project, which may include final design elements of the well house and wellhead, which will be completed once drilling of the well is finished.

Public outreach regarding the construction of the project will include notification to all stakeholders within the project area before construction, including mailers to property owner/tenant/utility customers, social media notifications including Facebook and NextDoor, and frequent updates to the City's website for project information.

This agenda item appeared on the City Council's tentative agenda document on September 11, 2022, which was a publicly-noticed meeting and this item was noticed in compliance with the California Brown Act.

### **COUNCIL GOAL ALIGNMENT**

The proposed action supports the following Council Goals and Workplan Items:

Preserve and protect Petaluma's Environment with Smart and Efficient use of Resources.

#55. Make the City's water distribution system more resilient by repairing and replacing leaking water pipes and implementing the Water/Sewer Master Plan.

### **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

This project will assist in ensuring the integrity and resiliency of the City's water distribution system and ensure the ability of the system to provide potable water to its residents. During times of drought, the groundwater well will be utilized to reduce water demand reliance on deliveries of

potable water from Sonoma Water's water transmission line. In addition, the new groundwater well will provide a vital water supply west of the Petaluma River.

The operation of the well will adhere to the Sustainable Management Criteria (SMC) set forth through the Groundwater Sustainability Plan (GSP) for the Petaluma Valley Groundwater basin. The criterion for a sustainable groundwater well includes chronically lowering of groundwater levels, reduction of groundwater storage, seawater intrusion, degraded water quality, and subsidence.

## **ENVIRONMENTAL REVIEW**

The City, as the Lead Agency, has prepared an IS/MND for the project in compliance with the requirements of CEQA and the CEQA Guidelines. Noticing and review periods required by CEQA have been satisfied. The IS/MND was completed under the direction and supervision of the City with support from their consultant team and reflects the City's independent judgment and analysis of the potential environmental effects of the Project.

The IS/MND identified potentially significant impacts related to the environmental topics of aesthetics, biological resources, cultural resources, geology/soils, hazards, hydrology, noise, transportation, and tribal cultural resources. Mitigation measures to avoid or reduce the potentially significant impacts to less than significant levels are identified in the IS/MND and included in the Mitigation Monitoring and Reporting Plan.

On September 12, 2022, the City Council considered the information contained in the IS/MND and Adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Approving the Oak Hill Municipal Well Project. Pursuant to its responsibilities as the CEQA Lead Agency for the project, the City has prepared a Mitigation Monitoring and Reporting Program (MMRP) to ensure compliance with the mitigation measures identified and proposed in the IS/MND. Based on the evaluation in the IS/MND, together with the lack of comments received to date during the public review process, it is determined that with the mitigation measures that the City has imposed, no significant adverse effects to the environment are expected from the project. The project would not have a detrimental effect on either short-term or long-term environmental goals. The project would not have impacts that are individually limited but cumulatively considerable, nor would have environmental impacts that will cause substantial adverse effects upon human beings, either directly or indirectly.

## **FINANCIAL IMPACTS**

The estimated total budget for the well construction program C67501611, including planning, design, administration, construction management and inspection, construction, and project contingency for several well sites is \$3,014,000. The Oak Hill Municipal Well project has a budget of \$1,040,000 which includes \$180,000 in funding from FY 22/23 and a FY 23/24 budget of \$860,000. This was due to delays in the project caused by the well-drilling moratorium, public outreach, and design considerations. The revised budget for the is as follows:

<b>Phase</b>	<b>C67501611 FY 22/23 and FY 23/24 Budget</b>	<b>Revised Budget</b>
Design/Planning/Environmental	\$ 175,000	\$ 223,000
Administration/Legal	\$ 5,000	\$ 3,000
Construction Contract	\$ 600,000	\$ 558,515
Construction Management	\$ 100,000	\$ 100,000
Contingency	\$ 150,000	\$ 147,485
CIP Overhead	\$ 10,000	\$ 8,000
<b>TOTAL:</b>	<b>\$1,040,000</b>	<b>\$1,040,000</b>
<b>Funding Sources</b>		
Water Enterprise	\$1,040,000	\$1,040,000

The funding for the planning, design, and construction of the Oak Hill Municipal Well project is provided by the Water Enterprise Fund.

### **ALTERNATIVES**

If the City Council does not authorize this resolution, the City's ability to provide sufficient potable water to its residents during drought curtailment or emergencies on the western side of Petaluma will be limited. This would also jeopardize the City's commitment to meet Sonoma Water's local groundwater production goals. Staff would need to select a new groundwater well site and would likely delay construction for up to a year.

### **ATTACHMENTS**

1. Resolution
2. Location Map
3. NorCal Pump Protest Letter
4. City Response to Protest Letter
5. Well Industries Inc's Response to Protest Letter