

## PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 09-0071

WHEREAS, Contract No. WD-2568, Bay Division Pipeline ("BDPL") Nos. 3&4 Crossover Facilities was advertised on February 13, 2009 for the installation of three crossover facilities in the City of Santa Clara, the Town of Atherton and City of Palo Alto (the "Project"); and

WHEREAS, the purpose of the Project is in response to the Delivery Reliability and Seismic Reliability Levels of Service ("LOS") goals established for the San Francisco Public Utilities Commission ("SFPUC") regional water system, to reduce the distance between isolation/crossover points on these 2 critical pipelines by adding three additional isolation/crossover facilities, in order to allow segments of pipe to be taken out of service for planned inspection and maintenance, and reduce the impact on customers that may result from an emergency outage of a pipeline; and

WHEREAS, The baseline budget amount is \$21,051,368 and the Engineer's Estimate is \$21,500,000 for this construction contract work to install three crossover facilities along BDPL No. 3&4 with each consisting of a valve vault, valves and actuators, pipe sections, electrical and communication systems and a backup generator system, and the lowest, qualified, responsible and responsive bidder, Shimmick Construction, submitted a bid in the amount of \$12,695,000; and

WHEREAS, The contract duration is 1159 consecutive calendar days; and

WHEREAS, The San Francisco Planning Department's Major Environmental Analysis ("MEA") Section has determined that Project No. CUW38001 – BDPL Nos. 3 & 4 Crossovers requires an Initial Study/Mitigated Negative Declaration ("IS/MND") under the California Environmental Quality Act ("CEQA"); and

WHEREAS, the San Francisco Planning Department MEA Section finalized the IS/FMND for the Project on October 23, 2008; and

WHEREAS, on December 9, 2008, at a public meeting, this Commission adopted Resolution No. 08-0225, in which it: (1) adopted the CEQA Findings, including adopting the IS/FMND, the Mitigation Monitoring and Reporting Program ("MMRP"), and the Standard Construction Measures and Greenhouse Gas Reduction Actions; and (2) approved the Project and authorized staff to implement the Project following final action by the Board of Supervisors; and

WHEREAS, on January 27, 2009, the Board of Supervisors reviewed and considered SFPUC Resolution No. 08-0225 and adopted the IS/FMND and the SFPUC CEQA Findings as its own with respect to the Project, including the MMRP, and directed the Clerk of the Board to forward Resolution 23-09 to the Controller; and

WHEREAS, Nine (9) bids were received and opened publicly on March 26, 2009; and

WHEREAS, SFPUC staff and Human Rights Commission ("HRC") review of the bids for qualifications, responsiveness and application of bid preferences resulted in the establishment of Shimmick Construction, Inc. as the lowest, qualified, responsible and responsive bidder; and

WHEREAS, An HRC subcontracting goal of 13% Local Business Enterprise ("LBE") participation has been established for this contract; and

WHEREAS, The firm being awarded a contract by the SFPUC must be in compliance with the Equal Benefits Provisions of Chapter 12B of the City's Administrative Code either at the time of the award, or within 2 weeks of the date of the Commission award; failure of the bidder to obtain compliance certification from HRC may result in award of the contract to the next lowest, responsible and responsive bidder, or re-bidding of the contract at the discretion of the City; and

WHEREAS, Failure to reach successful agreement on contract terms and conditions within 60 days of the date of the Commission award may result in award of the contract to the next lowest, responsible and responsive bidder, or re-bidding of the contract at the discretion of the City; and

WHEREAS, In order to implement the Project, the SFPUC is engaged in negotiations to enter into agreements with three other entities for construction related and permanent use rights necessary for the Project; and

WHEREAS, At the City of Santa Clara site, the SFPUC will enter into agreements with the Sports and Open Space Authority of the City of Santa Clara, including (1) a license agreement for construction staging, storage of spoils and ingress and egress; and (2) a license agreement for discharge of water during construction (the "Santa Clara Agreements"); and

WHEREAS, At the Town of Atherton site, the SFPUC will enter into agreements with the California Water Service Company, including (1) two temporary easements for construction staging and spoils storage (the "California Water Temporary Easements"), and (2) two permanent discharge/water flow easements, valued by appraisal at \$1,200 (the "California Water Permanent Easements"); and

WHEREAS, At the Palo Alto site, the SFPUC will enter into agreements with the United States General Services Administration, acting on behalf of the Veteran's Administration ("VA"), including (1) a license agreement to provide SFPUC with temporary access, construction staging and spoils storage rights, which agreement would be entered into concurrently with, and as partial consideration for, a lease granted by SFPUC, and (2) a lease agreement with the VA for its use of portions of SFPUC's right of way for parking and recreation use, for a term of nine years at an annual rent of \$6,620 per year, subject to annual escalation rate, and providing for SFPUC's right for ingress and egress over the VA driveways for maintenance, inspections and repairs (the "VA License and Lease Agreements"); and

WHEREAS, Funds are available from Project No. CUW38001, BDPL 3&4 Crossovers; and

WHEREAS, The Project files, including the IS/FMND and SFPUC Resolution No. 08-0225 have been made available for review by the SFPUC and the public, and those files are part of the record before this Commission; and

WHEREAS, The Commission has reviewed and considered the information contained in the IS/FMND, the findings contained in SFPUC Resolution No. 08-0225 and all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project; now, therefore, be it

RESOLVED, The Commission has reviewed and considered the FMND and record as a whole, finds that the FMND is adequate for its use as the decision-making body for the action taken herein to award contract WD-2568 BDPL No. 3&4 Crossover Facilities and incorporates the CEQA findings contained in Resolution No. 08-0225 by this reference thereto as though set forth in this Resolution; and be it

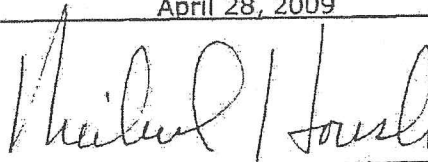
FURTHER RESOLVED, The Commission further finds that since the FMND was finalized, there have been no substantial Project changes and no substantial changes in Project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FMND; and be it

FURTHER RESOLVED, The Commission authorizes the General Manager to enter into the Santa Clara Agreements, the California Water Temporary Easements and the VA License and Lease Agreements, as described above, with such additional terms that are in the public interest, and in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested use as necessary for the Project, and approved as to form by the City Attorney. To the extent that the terms and conditions of these agreements will require SFPUC to indemnify the respective jurisdictions, those indemnity obligations are subject to the review and approval of the San Francisco Risk Manager; and be it

FURTHER RESOLVED, The Commission authorizes the General Manager to enter into the California Water Permanent Easements, subject to the same limitations provided above with respect to the other agreements, and subject to the approval by the Board of Supervisors pursuant to San Francisco Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby approves the plans and specifications and awards Water Enterprise Water System Improvement Program Program-funded Contract No. WD-2568, BDPL No. 3&4 Crossover Facilities, in the amount of \$12,695,000, to the lowest, qualified, responsible and responsive bidder, Shimmick Construction, Inc.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of April 28, 2009



Secretary, Public Utilities Commission