

Agenda Item 3.F

RECOMMENDATION

**Staff recommends that the Tracy Homelessness Advisory Committee recommend that the City Council adopt a resolution by a four-fifths vote (1) approving an amendment to the construction contract with GradeTech, Inc. for Capital Improvement Project (CIP) 71112 Arbor Temporary Emergency Housing Project expanding the scope of work in the amount of \$135,000 in anticipated work for a total not to exceed amount of \$435,000 for the amendment, and (2) dispensing the bidding requirements for the additional scope of work pursuant to California Public Contract Code Section 22050 and Tracy Municipal Code Section 2.20.270(a).**

EXECUTIVE SUMMARY

The City Council previously awarded a construction contract to GradeTech, Inc. to conduct demolition, rough grading, installation of underground utilities, and design work for the Temporary Emergency Housing Project on Arbor Avenue, Capital Improvement Project (CIP) 71112 (Project) on April 19, 2022, pursuant to Resolution No. 2022-052. In order to move forward with the completion, installation, and operation of custom containers (Phase 4) for the Project, additional construction work is required, including utilities. Staff is requesting that the City Council approve an amendment to the construction contract with GradeTech, Inc. to conduct the remaining preparation work for the containers, and waive the bidding requirements under the Public Contract Code and Tracy Municipal Code due to the emergency need for housing and impending grant deadlines.

BACKGROUND AND LEGISLATIVE HISTORY

On March 10, 2020, the Council adopted Resolution No. 2020-050, which declared a shelter crisis pursuant to California Government Code Section 8698.2. For the subsequent two years, the City actively pursued the development and construction of a temporary housing shelter on City-owned land located on Arbor Avenue to serve as an ongoing full-service temporary housing solution for the City's unsheltered (the Project). On April 19, 2022, through Resolution No. 2022-052, Council awarded the Project in the amount of \$1,978,480 to GradeTech, Inc. for Phase 1, which consisted of demolition, rough grading, installation of underground utilities, and design work. When GradeTech began construction, the City encountered unforeseen structures found underground. This required the first change order with GradeTech to remove these unforeseen structures.

On August 16, 2022, Council adopted Resolution No. 2022-121, which reaffirmed an emergency shelter crisis as the City continued to experience an increasing number of unsheltered individuals. In addition to the declaration of an emergency, the Resolution authorized the City Manager to take requisite actions needed to expeditiously provide interim housing solutions. Lastly, the Resolution dispensed the competitive bidding requirements for professional services pursuant to Tracy Municipal Code Section 2.20.140(b)(6).

Pursuant to the Council direction granted in the Resolution, staff moved forward to house unsheltered residents of the City by leasing modular trailers. The installation required an additional change order with GradeTech, which included preparation work and concrete pads.

On December 6, 2022, pursuant to Resolution No. 2022-194, the Council approved an additional \$300,000 in anticipated work for GradeTech.

ANALYSIS

The complexity and magnitude of the homelessness crisis, exacerbated by the COVID-19 pandemic, resulting supply chain shortages, and the limited supply of affordable permanent housing options in the City and throughout San Joaquin County, all have presented a significant immediate need for interim housing solutions in the City, including interim emergency housing. Concerns about the public health, safety, and welfare of unsheltered individuals increases as the months progress without options to shelter the unhoused.

California Public Contract Code Section 22050, subsection (a)(1), provides that, in the case of an emergency, a public agency, pursuant to a four-fifths vote, may take any directly related and immediate action required for that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. Similarly, the Council may dispense bidding requirements required under the Public Contract Code under TMC section 2.20.270(a). The governing body must make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency. Under subsection (c)(1), the governing body shall review the emergency action at its next regularly scheduled meeting and, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. The governing body shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

The City is currently in the process of implementing the installation and opening of the custom containers, which will provide an additional 38 beds. This requires additional construction work, including utility connections for the containers to be operable. Additionally, the City was awarded a grant from Health Plan of San Joaquin in the amount of \$1.2 million dollars. In order to comply with the grant's requirements, the containers must be fully operational by October 31, 2023.

Due to the emergency nature of the housing crisis and the impending grant deadlines, a formal bidding process under the Public Contract Code will prevent the City from addressing the immediate need to provide shelter to the unhoused. The City would also risk failing to comply with the grant's requirements. Staff is requesting that the Council approve an amendment to the construction contract with GradeTech, Inc. to conduct the remaining preparation work for containers, and waive the bidding requirements under the Public Contract Code due to the emergency need for housing and impending grant deadlines. As noted above, on December 6, 2022, pursuant to Resolution No. 2022-194, the Council approved an additional \$300,000 in anticipated work for GradeTech. Upon further analysis, in order to complete the remaining construction work to operate the containers, GradeTech estimates the updated cost not to exceed \$435,000 for this additional work, which constitutes an additional amount of \$135,000.

### FISCAL IMPACT

The total cost of the amendment to the contract will be \$435,000, however of that, as previously stated \$300,000 was already approved on December 6, 2022, pursuant to Resolution No. 2022-194. Staff is requesting an additional \$135,000 for completion of the work under the amendment. Funding for the change orders to GradeTech's contract has already been appropriated to the Temporary Emergency Housing Project, CIP 71112, which has sufficient funds remaining in the budget to pay the proposed change order. City is requesting \$135,000 of this appropriation be used to fully fund this Change Order. The City has dedicated City ARPA funds for this CIP.

### PUBLIC OUTREACH / INTEREST

Several Public Outreach sessions were conducted by City Staff. A Town Hall style activity was conducted at THAC meeting on August 22, 2022. At this meeting the community gave feedback and support for solutions to our shelter crisis.

### CEQA DETERMINATION

Government Code section 8698.4 exempts the application of the California Environmental Quality Act (CEQA) to various actions taken by public agencies to implement the construction of a homeless shelter in response to a declared shelter crisis. In addition, the interim solutions taken thus far are in furtherance of and related to the permanent solution that will be implemented, referred to as the Temporary Emergency Housing Project on Arbor Avenue (CIP 71112). A Notice of Exemption was issued on October 16, 2020 for the Temporary Emergency Housing site at 500 Arbor Avenue in accordance with Government Code sections 65660-65662 for Low Barrier navigation Centers and Section 15269(c) of the CEQA Guidelines (14 Cal. Code Regs. 15269(c) for Emergency Projects). No environmental impacts beyond those already analyzed for the CIP exist; accordingly, no further CEQA analysis is needed.

### STRATEGIC PLAN

This agenda item supports the Public Safety Strategic Priority, Implement the adopted Homelessness Strategic Plan. More specifically, by adopting this new resolution, the City Council would reaffirm their commitment to follow through with the strategic priorities set forth in their Strategic Plan.

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Tracy Homelessness Advisory Committee recommend that the City Council adopt a resolution by a four-fifths vote (1) approving an amendment to the construction contract with GradeTech, Inc. for Capital Improvement Project (CIP) 71112 Arbor Temporary Emergency Housing Project expanding the scope of work in the amount of \$135,000 in anticipated work for a total not to exceed amount of \$435,000 for the amendment, and (2) dispensing the bidding requirements for the additional scope of work pursuant to California Public Contract Code Section 22050 and Tracy Municipal Code Section 2.20.270(a).

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