



# REPORT TO COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
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24

Staff Report  
February 2, 2010

Honorable Mayor and  
Members of the City Council

Continued to February 9, 2010

**Contract: American Recovery And Reinvestment Act (ARRA) Water Meter Retrofit Project Phase 10 (Z14010028)**

**Location/Council District:** Residential and commercial properties in the City of Sacramento in East and South Sacramento/Council District 3 and 8

**Recommendation:** Adopt a **Resolution:** 1) voiding the City Council's prior award of the contract for Phase 10 of the Water Meter Retrofit project to Advantage Demolition and Engineering, and 2) awarding the contract to Florez Paving for an amount not to exceed \$2,234,762.50.

**Contact:** David L. Brent, Engineering Manager, 808-1420; Dan Sherry, Supervising Engineer 808-1419

**Presenters:** Not applicable

**Department:** Utilities

**Division:** Engineering Services

**Organization No:** 14001311

### **Description/Analysis**

**Issue:** On August 6, 2009, the City Council approved Resolution 2009-516 authorizing the execution of a \$20 million grant/loan funding agreement for the Water Meter Retrofit Project (Phases 1-9) with the California Department of Public Health (CDPH). The Council approved the addition of further Phases on September 15<sup>th</sup> (Phase 10) and September 22<sup>nd</sup> (Phase 11). The Project will retrofit approximately 15,000 to 17,000 residential and commercial water service connections within the City of Sacramento. Phase 10 will retrofit approximately 2,191 services with meters.

On October 13, 2009, the City Council awarded the contract for Phase 10 of the

Water Meter Retrofit project to Advantage Demolition and Engineering (Advantage), for an amount not-to-exceed \$2,230,779. Pursuant to the contract, Advantage filed performance and payment bonds purportedly issued by the Merchants Bonding Company. The bid bond filed by Advantage with its bid also was purportedly issued by the Merchants Bonding Company. On January 7, 2010, in response to an inquiry from City staff, the City was notified by Merchants Bonding Company that the bonds are not legitimate. Upon receipt of this information, City staff directed Advantage to stop work on the project. Upon receipt of additional verification that the bonds were not legitimate, City staff notified Advantage on January 15, 2010, that the contract was terminated due to the filing of fraudulent bonds. Advantage had not yet commenced work on the project when the contract was terminated. City staff recommends that the City Council void its prior contract with Advantage and award the contract to the second lowest bidder, Florez Paving, who has agreed to perform the contract for the amount that Florez Paving previously bid on the contract.

Additional background information may be found in Attachment 1. Location maps may be found in Attachment 2 and 3.

**Policy Considerations:** Section 3-4 of the City's Standard Specifications for Public Construction requires the successful bidder to file valid performance and payment bonds. Section 20 of the contract provides that a contractor's failure to provide or maintain valid bonds is cause for termination of the contract. Section 3-7 of the City's Standard Specifications for Public Construction provides that the lowest bidder's failure to file valid bonds is cause for the City Council to void the contract award and award the contract to the second lowest bidder.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** The Development Services Department, Environmental Planning Services Division, reviewed the Water Meter Retrofit Project and determined that the Project is categorically exempt from CEQA under Class 1, Section number 15301(b) and (c) and Class 3, Section number 15303(d) of the CEQA Guidelines. Projects exempt under Class 1, Section number 15301(b) and (c) consist of minor alteration or repair of existing utility facilities and sidewalks. Projects exempt under Class 3, Section number 15303(d) consist of installation and location of new, small utility facilities. Following the City Council's addition of Phase 10 to the Project on September 15, 2009, a Notice of Exemption was filed for Phase 10 of the Project on September 23, 2009.

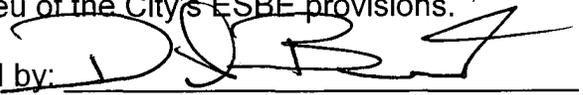
**Sustainability Considerations:** The project is consistent with the Sustainability Master Plan goal to help to improve water conservation awareness, by providing a monthly statement of water usage to the customers. The Meter Retrofit furthers the City's progress in implementing the Water Forum Agreement and the California Urban Water Conservation

Council Best Management Practices (BMPs 1, 4, and 7).

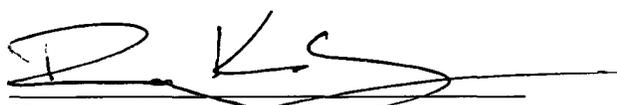
**Rationale for Recommendation:** Staff recommends that the City Council void the prior contract award to Advantage due to the contractor's filing of invalid bonds, and award the contract to the second lowest bidder, Florez Paving, as the lowest responsive and responsible bidder for an amount not to exceed \$2,234,762.50. This is approximately \$4,000 more than the amount of the Advantage bid. Advantage had not yet started work on the contract when City staff directed Advantage to stop work, and no money was paid to Advantage under the contract.

**Financial Considerations:** There are sufficient funds in Z14010028 to award this contract. The total estimated Phase 10 project cost is \$2.25 million. The ARRA funding agreement was approved by City Council on August 6, 2009 (Resolution 2009-516). This resolution provides funds for the Water Meter Retrofit Project (Z14010000) in the amount of \$20 million, of which \$10 million is a Safe Drinking Water State Revolving Fund (SDWSRF) loan and \$10 million will be provided as additional subsidization in the form of principal forgiveness (the grant portion). Water ARRA funds (6015) for Z14010028 is in the amount of \$2,469,502. Water user rate revenues (\$284,839) in the Water Enterprise Fund (6005) have been dedicated as the funding source for the debt service, with a 20-year repayment period at a 2.5017 percent interest rate. Rate revenues will also be used for any non-grant/loan covered expenses incurred as part of the Project.

**Disadvantage Business Enterprise/Minority Business Enterprise/Women Business Enterprise (DBE/MBE/WBE):** The bid submitted by Florez Paving complied with the DBE/MBE/WBE requirements set forth in the bid specifications pursuant to applicable provisions of the ARRA/SDWSRF funding agreement. Under the City Code, these DBE/MBE/WBE requirements apply in lieu of the City's ESBE provisions.

Respectfully Submitted by:   
David L. Brent  
Engineering Manager

Approved by:   
Marty Hanneman  
Director of Utilities

Recommendation Approved:  
  
Ray Kerridge  
City Manager

**Table of Contents:**

	Report	pg. 1-4
<b>Attachments</b>		
1	Background	pg. 5-6
2	Location Map (East Sacramento)	pg. 7
3	Location Map (South Sacramento)	pg. 8
4	Resolution	pg. 9-10

**Attachment 1**

**BACKGROUND**

On August 6, 2009, City Council authorized the City Manager to negotiate and execute a Funding Agreement with the California Department of Public Health (CDPH) for the American Recovery And Reinvestment Act (ARRA) funded Water Meter Retrofit Project, Phases 1-9. The Council approved the addition of additional Project Phases, and approved the plans and specifications for these additional Phases, on September 15<sup>th</sup> (Phase 10) and September 22<sup>nd</sup> (Phase 11).

The Water Meter Retrofit Project submitted for ARRA funding consists of one project divided into multiple phases. The project will install new water meters and Automatic Meter Reading (AMR) transmitters on 15,000 - 17,000 existing residential and commercial water services. This project will help the City comply with the requirement of Assembly Bill 2572, which requires the City to install water meters on all existing water service connections within the City of Sacramento. This law set a deadline of 100% metering of all residential and commercial accounts by 2025.

Project Z14010028 is Phase 10 and will install 2,191 meters on unmetered residential and commercial services within the project area in East and South Sacramento.

All retrofit projects are coordinated with public outreach to customers and stake holders.

This project was advertised on September 7, 2009, and ten (10) bids were received and opened by the City Clerk on September 23, 2009. The bids are summarized below:

<b>Contractor</b>	<b>Bid Amount</b>
Advantage Demolition & Engineering	\$2,230,779
Florez Paving	\$2,234,762.50
Marques Pipelines, Inc.	\$2,273,770
Flowline Contractors, Inc.	\$2,295,166
Sanco Pipelines	\$2,297,466
Preston Pipelines	\$2,343,407
Navajo Pipelines, Inc.	\$2,374,450
West Valley Construction	\$2,448,900
Argonaut Construction	\$2,456,400
Arrow Construction	\$2,540,000

The engineer's estimate was \$2,710,000.

On October 13, 2009, the City Council awarded the contract for Phase 10 of the Water Meter Retrofit project to Advantage Demolition & Engineering (Advantage) for an amount not-to-exceed \$2,230,779. Pursuant to the contract, Advantage filed performance and payment bonds purportedly issued by the Merchants Bonding

Company. The bid bond provided by Advantage with its bid also was purportedly issued by the Merchants Bonding Company.

On January 7, 2010, in response to an inquiry from City staff, the City was notified by Merchants Bonding Company that the bonds filed by Advantage are not legitimate. Upon receipt of this information, City staff directed Advantage to stop work on the project. Upon receipt of additional verification that the bonds were not legitimate, City staff subsequently notified Advantage that the contract was terminated due to the filing of fraudulent bonds.

City staff recommends that the City Council void its prior contract award to Advantage and award the contract to the second low bidder, Florez Paving, for the amount not to exceed \$2,234,762.50.

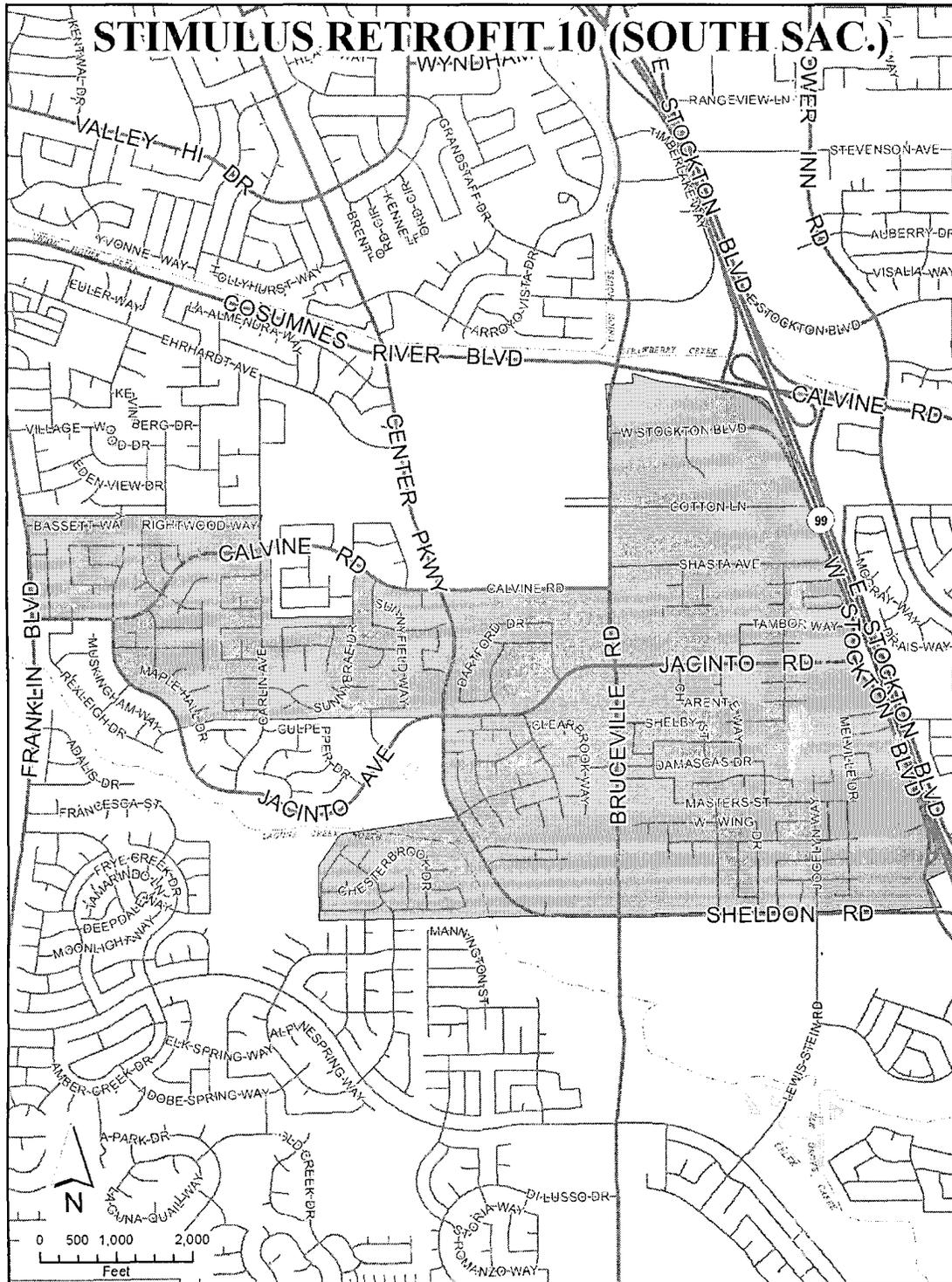
**Attachment 2**

**Location Map – East Sacramento**



**Attachment 3**

Location Map – South Sacramento



**RESOLUTION NO.**

Adopted by the Sacramento City Council

February 2, 2010

**VOIDING PRIOR AWARD AND AWARING CONTRACT FOR THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) WATER METER RETROFIT PROJECT PHASE 10 (Z14010028)**

**BACKGROUND**

- A. On August 6, 2009, the City Council approved Resolution 2009-516 authorizing the execution of a \$ 20 million grant/loan funding agreement for the Water Meter Retrofit (WMR) Project (Phases 1-9), utilizing American Recovery and Reinvestment Act (ARRA) funding provided through the Safe Drinking Water State Revolving Fund (SDWSRF) Program administered by the California Department of Public Health. The City Council approved the addition of additional Phases to the Project on September 15<sup>th</sup> (Phase 10) and September 22<sup>nd</sup> (Phase 11).
- B. The WMR Project will retrofit water services with meters at a total of 15,000 - 17,000 residential and commercial properties. Phase 10 of the Project will install 2,191 meters on unmetered services.
- C. The plans and specifications for Phase 10 of the Project were approved by the City Council on September 15, 2009.
- D. On October 13, 2009, the City Council adopted Resolution No. 2009-647, awarding the contract for Phase 10 of the WMR project to Advantage Demolition and Engineering for an amount not-to-exceed \$2,230,779.
- E. Pursuant to the contract, Advantage Demolition and Engineering filed with the City performance and payment bonds purportedly issued by the Merchants Bonding Company. The bid bond previously filed by Advantage Demolition and Engineering with its bid also was purportedly issued by the Merchants Bonding Company.
- F. On January 7, 2010, in response to an inquiry from City staff, the City was notified by Merchants Bonding Company that the bonds filed by Advantage Demolition and Engineering are not legitimate. Upon receipt of this information, City staff directed Advantage Demolition and Engineering to stop work on the project. Upon receipt of additional verification that the bonds were not legitimate, City staff subsequently notified the company that the contract was terminated.

due to the filing of fraudulent bonds.

- G. Section 3-4 of the City's Standard Specifications for Public Construction requires the successful bidder to file valid performance and payment bonds. Section 20 of the contract provides that a contractor's failure to provide or maintain valid bonds is cause for termination of the contract, and Section 3-7 of the City's Standard Specifications for Public Construction provides that the lowest bidder's failure to file valid bonds is cause for the City Council to void the contract award to that bidder and award the contract to the second lowest bidder.
- H. The second low bidder on this contract, Florez Paving, has agreed to perform the contract for the amount that Florez Paving previously bid.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City Council's prior award of the contract for the SDWSRF ARRA Water Meter Retrofit Project Phase 10 to Advantage Demolition and Engineering is voided due to the fact that Advantage Demolition and Engineering filed invalid bonds with the City.
- Section 2. The contract for the SDWSRF ARRA Water Meter Retrofit Project Phase 10 is awarded to Florez Paving, for an amount not to exceed \$2,234,762.50.