TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER
DEPARTMENT: UTILITIES
DATE: JANUARY 10, 2011
CMR: 108:11
REPORT TYPE: CONSENT

SUBJECT: Approval of Amendment No. 1 to Contract C10135713 with K. J. Woods Construction, Inc. in the Amount of $170,000 for a Total Not to Exceed Amount of $2,202,800 for Asbestos Cement Pipe Removal and Disposal for Capital Improvement Program Project WC-08012 (Wastewater Rehabilitation and Augmentation Project 21) and Adoption of a Wastewater Enterprise Fund Budget Amendment Ordinance for Fiscal Year 2011 to Transfer Appropriation to Capital Improvement Project WC-08012 Wastewater Rehabilitation and Augmentation (Project 21) from Capital Improvement Project WC-07004, Wastewater Rehabilitation and Augmentation (Project 20) in the Amount of $170,000.

RECOMMENDATION
Staff recommends that Council:
1. Approve Amendment No. 1 to Contract C10135713 with K. J. Woods, Inc. in the Amount of $170,000 for a Total Not to Exceed Amount of $2,202,800 for Asbestos Cement Pipe Removal and Disposal for Capital Improvement Program Project WC-08012, (Wastewater Rehabilitation and Augmentation Project 21); and 2) Adopt a Budget Amendment Ordinance for Fiscal Year 2011 to Transfer Appropriation to Capital Improvement Project WC-08012, Wastewater Rehabilitation and Augmentation (Project 21) from Capital Improvement Project WC-07004, Wastewater Rehabilitation and Augmentation (Project 20) in the Amount of $170,000.

BACKGROUND
On June 21, 2010, the City Council approved and authorized the City Manager to execute a contract with K. J. Woods Construction, Inc. (KJW) for rehabilitating the sanitary sewer and related structures for Sanitary Sewer Rehabilitation Capital Improvement Program Project WC-08012 (Project 21 – Barron Park, Alma, Baylands) (CMR:271:10). The original contract included $1,848,000 for construction, plus a contingency of $184,800, for a total not to exceed amount of $2,032,800.

The original scope of work to be performed under the contract was for the replacement of approximately 22,083 linear feet of sanitary sewer mains of various sizes, 63 sewer manholes, and 380 sewer service laterals. The project is primarily located in the Barron Park area with some of the work in non-contiguous areas along a part of Alma and by the Baylands Ranger Station and Baylands Interpretive Center. The size of this project significantly exceeds our in-house resources making it necessary to contract out the work.
DISCUSSION
During the design phase of the project wastewater laterals were specified to be replaced by pipe bursting methods. Pipe bursting is the most cost effective replacement method for wastewater laterals, involving minimal excavation. During project construction staff determined that a higher than normal percentage of the laterals were made of Asbestos Concrete (AC) pipe. The high percentage of AC pipe could not be anticipated because existing records were incomplete as a result of this neighborhood being annexed into the City of Palo Alto in 1975. According to the contract, most of the laterals were to be replaced by a method that burst the existing pipe while inserting a new pipe.

Federal, State and local regulations prevent the use of this method for AC pipe. Since the pipe bursting approach was not acceptable and required a modified replacement method, the project involved unanticipated excavation and proper disposal of the AC materials. There have been two change orders executed to cover part of the open cut AC lateral replacement and part of the removal and disposal of AC pipe material. These two change orders have already used 92% of the original contingency. Although approximately 8% of the original contingency is still available, the project is only 15% complete. Staff anticipates that there may be insufficient funds available if additional change orders are needed. The recommended contract amendment will add $170,000 to the total contract price, and increase the 10% contingency from $184,400 to $200,255, to cover future change orders. The contract amendment also clarifies the contractor’s responsibility for proper handling of hazardous materials.

Generally, the City has limited quantities of AC pipe in the wastewater collection system. Based on the pipe types that are identified in our database, the AC portion of the system is less than 2% of the total inventory in the wastewater collection system. For this project, however, located primarily in the Barron Park area, staff has subsequently determined that approximately 50% of the affected laterals scheduled for replacement are AC. This was due to the fact that when Barron Park was annexed in the 70’s, there were incomplete utility records. This was unforeseen and unexpected.

RESOURCE IMPACT
Staff requires $170,000 to amend the contract with K. J. Woods Construction to cover additional change orders that may include removal and disposal of AC pipes. The existing appropriation of Project 21 is not sufficient to cover the cost of this amendment. Capital Improvement Project WC-07004 (Project 20) has sufficient remaining available appropriation that will be transferred to cover the additional cost of Project 21. This transaction has no impact on the Wastewater Collection Fund rate stabilization reserve balance.

POLICY IMPLICATIONS
Amending the contract is consistent with Council policy. This recommendation is consistent with the Council approved Utilities Strategic Plan Key Strategy #2, “invest in utility infrastructure to deliver reliable service.”

ENVIRONMENTAL REVIEW
This project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Sections 15301 (b) repair, maintenance of existing facilities and 15302 (c) replacement or reconstruction of existing facilities.
ATTACHMENTS
A. Amendment No. 1 to Contract No. C10135713
B. Budget Amendment Ordinance

PREPARED BY: ROBERT ITEM, Project Engineer-S, WGW Engineering
EDWARD WU, Sr. Project Engineer, WGW Engineering
GREG SCOBY, Engineering Manager, WGW Engineering

REVIEWED BY: TOMM MARSHALL, Assistant Director Utilities

DEPARTMENT APPROVAL: VALERIE C. FONG
Director of Utilities

CITY MANAGER APPROVAL: JAMES KEENE
City Manager
AMENDMENT NO. ONE TO AGREEMENT NO. C10135713
BETWEEN THE CITY OF PALO ALTO AND K. J. WOODS
CONSTRUCTION, INC.

This Amendment No. 1 to Agreement No. C10135713 ("Agreement") is entered into January 10, 2011, by and between the CITY OF PALO ALTO, a chartered California municipal corporation with its primary business address at 250 Hamilton Avenue, Palo Alto, California 94301 (hereinafter called "City"), and K.J. WOODS CONSTRUCTION, INC., (hereinafter called "Contractor"), with its primary business address at 1485 Bayshore Blvd. #149, San Francisco, CA 94124, each individually, a "Party" and, collectively, "the Parties".

RECITALS:

WHEREAS, the Parties entered into the Agreement on June 21, 2010 for the completion of Sanitary Sewer Rehabilitation Capital Improvement Program Project WC-08012 (Project 21 – Barron Park, Alma, Baylands), which includes the Contractor’s replacement of approximately 22,083 linear feet of sanitary sewer mains of various sizes, 63 sewer manholes and 380 sewer service laterals; and

WHEREAS, the Parties wish to amend the Agreement;

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 7. The section entitled “COMPENSATION TO CONTRACTOR” is hereby amended, to read as follows:

Section 7.1 Contract Sum.
Contractor shall be compensated for satisfactory completion of the Work in compliance with the Contract Documents the Contract Sum of Two Million Two Thousand Five Hundred Forty Five Dollars ($2,002,545).

SECTION 31. The section entitled "HAZARDOUS MATERIALS" is hereby added, to read as follows:

SECTION 31. HAZARDOUS MATERIALS.

Section 31.1 Hazardous Materials Defined.
The term Hazardous Material(s) shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to, those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of hazardous substances, hazardous waste, hazardous chemical substance or mixture,
imminently hazardous chemical substance or mixture, toxic substances, hazardous air pollutant, toxic pollutant or solid waste in the (a) CERCLA or Superfund as amended by SARA, 42 U.S.C. Sec. 9601 et seq.; (b) RCRA, 42 U.S.C. Sec. 6901 et seq.; (c) CWA., 33 U.S.C. Sec. 1251 et seq.; (d) CAA, 42 U.S.C. 78401 et seq.; (e) TSCA, 15 U.S.C. Sec. 2601 et seq.; (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407; (g) OSHA, 29 U.S.C. 651 et seq.; (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments); (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq.; (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq.; (l) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq.; (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq.; (n) Proposition 65, Cal. Health and Safety Code Sec. 25249.5 et seq.; (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq.; (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq.; (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq.; (r) Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541; (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq.; and, (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, materials and wastes which are, or in the future become regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminant, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents; (ii) any petroleum products or fractions thereof; (iii) asbestos; (iv) polychlorinated biphenyls; (v) flammable explosives; (vi) urea formaldehyde; and, (vii) radioactive materials and waste.

Section 31.2 COMPLIANCE WITH HAZARDOUS MATERIAL LAW
Contractor and subcontractors, if any, shall be in full compliance with any and all laws, orders, citations, rules, regulations, standings and statutes in effect with respect to handling, storage and removal of Hazardous Material. Contractor accepts sole responsibility for ensuring the adequacy of and required use of all safety practices, procedures and equipment.

Except as herein modified, all other provisions of the Agreement, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have by their duly authorized representation executed this Amendment on the date first above written.

CITY OF PALO ALTO

____________________________
City Manager

K.J. WOODS CONSTRUCTION, INC.

By: ______________________

Name: _____________________

Title: ______________________

APPROVED AS TO FORM:

____________________________
Sr. Deputy City Attorney
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO ADOPTING A WASTEWATER ENTERPRISE FUND BUDGET AMENDMENT ORDINANCE FOR FISCAL YEAR 2011 TO TRANSFER APPROPRIATION TO CIP PROJECT WC-08012, WASTEWATER REHABILITATION AND AUGMENTATION (PROJECT 21) FROM CIP PROJECT WC-07004, WASTEWATER REHABILITATION AND AUGMENTATION (PROJECT 20) IN THE AMOUNT OF $170,000

The Council of the City of Palo Alto does ordain as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 28, 2010 did adopt a budget for fiscal year 2011; and

B. In fiscal year 2008 Council initially appropriated $265,000 for the design cost of CIP Project WC-08012, Wastewater Rehabilitation and Augmentation (Project 21). In fiscal year 2009, Council increased the appropriation by $2,700,000 for the construction cost bringing total appropriation to $2,965,000; and

C. Project 21 will replace approximately 22,083 linear feet of sanitary sewer main of various sizes, 63 manholes and 380 sewer service laterals. Project 21 will be located in the Barron Park area with some of the work in non-contiguous areas along a part of Alma Street, Baylands Ranger Station and Baylands Interpretive Center; and

D. The original design of the Project 21 was to use the "pipe bursting" method which is the most cost effective, and involves minimal excavation. Pipe bursting does not remove existing laterals but instead burst the existing pipe while inserting a new pipe. However, during the construction of this project it was determined that a high percentage of the laterals were made of Asbestos Concrete (AC); and environmental regulations require the AC laterals to be removed and disposed of via an alternative method, such as open-cut replacement; and

E. An estimated amount of $170,000 is needed to amend the contract with K.J. Woods Construction should additional change order be required to cover the removal and disposal of any
remaining pipes, or for any other unforeseen but necessary work. The existing appropriation of Project 21 is not sufficient to cover the cost of this change. CIP Project WC-07004 (Project 20) has sufficient remaining available appropriation that will be transferred to cover the additional cost of Project 21; and

G. City Council authorization is needed to amend the 2011 budget as hereinafter set forth.

**SECTION 2.** The sum of One Hundred Seventy Thousand Dollars ($170,000) is hereby appropriated to CIP Project WC-08012, Wastewater Rehabilitation and Augmentation (Project 21).

**SECTION 3.** The appropriation for CIP Project WC-07004 (Project 20), Wastewater Rehabilitation and Augmentation is hereby reduced by One Hundred Seventy Thousand Dollars ($170,000).

**SECTION 4.** The transactions above will have no impact on the Wastewater Collection Fund reserve balance.

**SECTION 5.** As specified in Section 2.28.080(a) of the Palo Alto Municipal Code, a two-thirds vote of the City Council is required to adopt this ordinance.

**SECTION 6.** As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

**SECTION 7.** The project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA guideline Sections 15301(b) repair, maintenance of existing facilities and 15302 (c) replacement or reconstruction of existing facilities.

INTRODUCED AND PASSED:

AYES:
NOES:
ABSTENTIONS:
ABSENT:
ATTEST:                           APPROVED:

City Clerk                  Mayor
APPROVED AS TO FORM:

City Manager

Sr. Assistant City Attorney

Director of Utilities
Department

Director of Administrative
Services