

PUBLIC IMPROVEMENT AGREEMENT

THIS PUBLIC IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between **David Knott, Inc.** ("the Contractor") and the CITY OF REEDLEY ("the Owner").

WITNESSETH: That the Contractor and the Owner, for the consideration hereinafter named, agree as follows:

SECTION A

The Contractor agrees to furnish all labor and materials, including tools, implements, and appurtenances required, and to perform all work in a good and workmanlike manner, free from any and all liens and claims of mechanics, materialmen, Subcontractors, artisans, machinists, teamsters, draymen, and laborers, required for: **DEMOLITION OF THE FORMER ROYAL VALLEY COLD STORAGE AND PACKINGHOUSE BUILDING** in the City of Reedley, including all appurtenances thereto, in strict compliance with the Bid and Contract Documents dated October 2018.

SECTION B

The Contractor and the Owner agree that the Bid and Contract Documents, as completed by the Contractor, the Prevailing Wage Rate Determination as determined by the State Director of Industrial Relations, or Federal Wage Rate Determination as determined by the Secretary of Labor, whichever is higher, the Standard Specifications dated 2010, of the State of California, Department of Transportation, and any supplementary specifications referenced therein, the Standard Plans, the Special Provisions including the General Provisions, the Plans and Drawings, and the Standard Specifications, together with this Agreement are hereby incorporated and form the contract between Contractor and Owner, and they are as fully a part of the contract as if fully set forth herein. If there is a conflict between any provision in the Specifications and any provision in this Agreement, the provision in this Agreement shall prevail.

SECTION C

The Owner agrees to pay the Contractor the sum of three hundred twenty eight thousand eight hundred and twenty eight Dollars (\$328,828.00) in current funds for the full performance of the contract, it being understood that said price is based upon review of the project site, structure, and provided supplemental information, and includes all quantities of materials and costs necessary to complete the project.

SECTION D

If the Contractor shall be adjudged as bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his Subcontractors should persistently or repeatedly refuse or should fail, except in cases of materials, or if he should fail to make prompt payment to Subcontractors or for material or labor, or persistently disregard laws, ordinances, or the instructions of the City Engineer of the City of Reedley, hereinafter referred to as Engineer, then the Owner may upon certificate of the Engineer when sufficient cause exists to justify such action, serve written notice upon the Contractor and his surety of its intention to terminate the contract, and unless within five (5) days after service of such notice, such violations shall cease and satisfactory arrangement for correction thereof be made, the contract shall, upon the expiration of said five (5) days, cease and terminate.

In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the contract, provided, however, that if the surety within ten (10) days after the serving upon it of notice of termination does not give Owner written notice of its intention to take over and perform the contract or does not commence performance thereof within the ten (10) days stated above from the date of the serving of such notice, the Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety will be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner, may without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expenses of finishing the work, including compensation for additional managerial and administration services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner, as herein provided, and damage incurred through the Contractor's default, shall be certified by the Engineer.

SECTION E

With respect to any work required to be done under this contract, the Contractor shall indemnify and hold harmless the Owner (City of Reedley), the State of California, the United States of America, and all other participating public agencies whether or not said agencies are named herein who have jurisdiction within the areas under which the work is to be performed and all officers, officials, volunteers and employees of the Owner, the State of California, the United States of America and said other participating agencies against any and all claims, demands, causes of action, damages, (including damages to the Owner's property or property of any participating agencies) costs, or liabilities (including costs, or liabilities of the Owner, or the participating agencies with respect to its employees) in law or in equity of every kind and nature whatsoever, directly or proximately resulting from or caused by the performance of the contract whether such performance by the Contractor, his Subcontractor, or anyone directly or indirectly employed by him; and the Contractor shall, at his sole risk and expense, defend any and all suits, actions, or other legal proceedings, which may be brought or instituted by third persons against the Owner, their participating agencies, their officers and employees on any such claim, demand, or cause of action and the Contractor shall pay and satisfy any judgment or decree which may be rendered against the Owner, their participating agencies, their officers and employees and any such suit, action, or other legal proceedings. In no event shall the Contractor indemnity obligation extend to the active negligence, sole negligence, or willful misconduct of an indemnified party in compliance with CA Civil Code §2782.

The Contractor shall furnish the Owner with a Certificate of Insurance, indicating insurance coverage with respect to the liability assumed by the Contractor under the provisions of this article, and shall further indicate insurance coverage with minimum limits as shown in the project specifications.

The Certificate of Insurance shall further provide that a minimum thirty (30) days notice of cancellation or reduction in coverage shall be given the Owner.

An Additional Insured Endorsement to the Contractor's Liability Insurance policy naming the City of Reedley, its officers, officials, employees and volunteers, and other participating public agencies (if applicable) and all officers and employees of the above shall also be furnished.

SECTION F

Contractor represents that he has secured the payment of Worker's Compensation in compliance with the provisions of the Labor Code of the State of California and during performance of the work contemplated herein will continue so to comply with said provisions of said Code. Contractor shall supply the Owner with the insurance data and certificates as set forth in the contract documents. The Certificates of Insurance evidence the following:

General Liability

Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than four million dollars (\$4,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. An endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37, is also required.

Auto Liability

Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than four million dollars (\$4,000,000) per accident.

Workers' Compensation

Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

Contractors Pollution Liability

Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than two million dollars (\$2,000,000) per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall also provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

If the Contractor self-insures Worker's Compensation, Certificate of Consent to Self-insure shall be provided the Owner.

SECTION G

Contractor shall forthwith furnish in triplicate a faithful performance bond in an amount equal to One-Hundred (100%) percent of the contract price and a payment (labor and materials) bond in an amount equal to One-Hundred (100%) percent of the contract price, both bonds to be written by a surety company acceptable to the Owner and in the form prescribed by law.

The payment bond shall include a provision that if the Contractor or his Subcontractors shall fail to pay (a) amounts due under the Unemployment Insurance Code with respect to work performed under the contract or (b) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of the employees of the Contractor and Subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the surety will pay these amounts. In case suit is brought upon the payment bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

SECTION H

This work for this project shall be diligently prosecuted to completion before the expiration of ONE-HUNDRED TWENTY (120) consecutive CALENDAR DAYS after the City Engineer issues a notice to proceed to the contractor.

Contractor shall pay to the City of Reedley the sum of \$1,000 per day, for each and every calendar day(s) delay in finishing the work in excess of the number of consecutive calendar days prescribed above.

SECTION I

Should either party to the contract bring an arbitration or mediation proceeding or other action to enforce any provisions of the contract, including an action pursuant to Public Contract Code Section 20104.4, the prevailing party shall be entitled to recover reasonable attorney's fees and all costs in connection therewith. The term "prevail" as used in this section shall include any action at law, in equity, or pursuant to arbitration in which either party has been successful.

SECTION J

Time is of the essence. The improvement and work contemplated in the performance of this contract is predicated on suitable weather conditions as determined by the City Engineer. If the City Engineer determines that suitable conditions are not experienced during the contract period (after the notice to proceed), either because of weather delays or other delays that prevent the Contractor from performing required work, additional contract days to complete the project shall be credited to the Contractor as provided in the specifications, but no additional monetary compensation shall be due or owing to the Contractor therefor. Any such delay shall be documented and processed on the standard change order form.

IN WITNESS WHERE OF, they have executed this agreement the 17th day
of January, 2018.19

CONTRACTOR,

BY: _____

David Knott

DAVID KNOTT, INC.

(Print Name Below Signature Line)

**OWNER,
CITY OF REEDLEY**

BY: _____

NICOLE R. ZIEBA

CITY MANAGER

RECOMMEND FOR APPROVAL

BY: _____

JOHN S. ROBERTSON, P.E.

CITY ENGINEER



REEDLEY CITY COUNCIL

- ☐ Consent
- ☒ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 14

DATE: November 13, 2018

TITLE: CONSIDERATION OF ITEMS PERTAINING TO THE DEMOLITION OF THE ROYAL VALLEY BUILDING:

- (A) ADOPT RESOLUTION NO. 2018-085 APPROVING A CONTRACT WITH DAVID KNOTT, INCORPORATED, FOR THE DEMOLITION AND REMEDIATION OF ALL MATERIALS OF THE ROYAL VALLEY BUILDING IN THE AMOUNT OF \$328,828 AND GRANT THE CITY MANAGER AUTHORITY TO APPROVE CHANGE ORDERS UP TO AN AMOUNT EQUAL TO 15% OF THE CONTRACTED AMOUNT
- (B) ADOPT BUDGET RESOLUTION NO. 2018-086 AMENDING THE FISCAL YEAR 2018-2019 BUDGET TO APPROPRIATE \$407,500 IN AVAILABLE 2011 RDA BOND PROCEEDS TO FULLY FUND THE ROYAL VALLEY DEMOLITION PROJECT
- (C) APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE SOLAR POWER PURCHASE AGREEMENT WITH PACIFIC POWER RENEWABLES INC. DATED APRIL 23, 2013.

SUBMITTED: John S. Robertson, City Engineer
Russ Robertson, Public Works Director
Paul A. Melikian, Assistant City Manager

APPROVAL: Nicole R. Zieba, City Manager

RECOMMENDATION

- (A) Adopt Resolution No. 2018-085 approving a contract with David Knott, Incorporated, for the demolition and removal of all materials of the Royal Valley Building in the amount of \$328,828 and grant the City Manager authority to approve change orders up to an amount equal to 15% of the contracted amount.
- (B) Adopt budget resolution No. 2018-086 amending the fiscal year 2018-2019 Budget to appropriate \$407,500 in available 2011 RDA Bond proceeds to fully fund the Royal Valley Demolition project.
- (C) Approve and authorize the City Manager to execute an amendment to the solar power purchase agreement with Pacific Power Renewables Inc. for the removal of solar panels from the Royal Valley Building and subsequent reinstallation of panels on elevated parking structures to serve solar power to the Police Department and City Hall facilities.

EXECUTIVE SUMMARY

The demolition of the former Royal Valley cold storage and packinghouse building (Project) was put out to bid on October 16, 2018. The base bid required the remediation and disposal of all encountered hazardous waste and demolition of the entire upright or elevated portions of the structure leaving the majority of the concrete floor intact for use as a parking lot. An add alternate bid item was included for the removal of the concrete floor. On October 25, 2018 a mandatory pre-bid meeting and project walk was conducted by City staff that was well attended by multiple interested contractors. The project scope was discussed and all areas of the building were opened to contractors for review and inspection.

Appropriate qualifications or previous experience in the demolition of buildings with known hazardous waste substances and appropriate and valid California Contractor's Licensure was required for the Project. Bid documents required that all bidders met licensure or experience requirements particular to this scope of work. Specifically, the bidders had to have a Class A or B general contractor's license. Additionally, the bidders were required to have two specialty licenses: C-21 Building Moving/Demolition & C-22 Asbestos Abatement. In the absence of specialty licensure, the contractors had to show experience in the demolition of three similar sized buildings.

In addition to the project site visit, Engineering staff provided several documents related to the presence of hazardous materials within the structure that require remediation that included a Phase 1 Environmental Analysis. A Phase 1 report is an environmental site assessment that performs an historical assessment of the property in order to identify operations that occurred around or within the structure that produced hazardous waste which will have to be disposed of properly and safely.

The bid opening was held at City Hall on November 6, 2018. The City received, opened, and read aloud eight (8) bids. The bids ranged from \$328,828 to \$620,267. Upon analysis of the received bids Engineering staff confirmed that the low bidder, David Knott, Inc., met the licensure requirements and provided all required documents and bonds required by the bid documents.

Staff is recommending that the City Council award both the base bid and add alternative to David Knott, Inc. in the amount of \$328,828 and grant the City Manager authority to approve change orders up to an amount equal to 15% of contracted amount equaling \$49,324 for a total contract amount of \$378,152.

The funding for the Project will require a budget amendment, appropriating \$407,500 from available 2011 RDA Bond proceeds, which is an eligible funding source. The requested amount covers the contractor's fees, a 15% contingency, and covers expenses to pay the consultants that assisted in finalizing the scope of work by identifying all hazardous waste materials.

\$ 328,828	Demolition Contract with Dave Knott, Inc.
49,324	15% Demolition Contract Contingency
15,000	Initial testing and Phase I Environmental Report
14,250	<u>Estimate of City staff time for project management</u>
<u>\$407,402</u>	Total Demolition Project Budget

Solar Power Purchase Agreement

On March 26, 2013, the City Council approved a solar power purchase agreement with Pacific Power Renewables, Inc. to develop and operate photovoltaic projects at various city facilities, which includes City Hall and the Police Department. The roof of the Royal Valley building was used for this location due to the large amount of space required for the arrays that provide solar power. Given the imminent demolition of the Royal Valley building, staff researched options to remove and redeploy the panels following the demolition of the building. Pacific Power has agreed to remove the panels, store them for a period of up to one year, and then reinstall them on elevated solar parking structures at no up-

front cost to the City. In return, the City would agree to extend the current solar power purchase agreement for a period of five years, bringing the total term of the agreement to 25 years.

The biggest value of the Power Purchase Agreement, the 0% cost escalator, will be preserved for the remainder of the term, ensuring that the City will in effect, continue to pay the same utility rate on power generated by the arrays as it did the first year of the agreement through the end of the extended term.

Phase Two

The scope of the demolition project will leave the City with a largely unimproved vacant parcel. The next phase of the project will include construction of a fenced parking lot with elevated solar structures; secure storage area, security lighting, drainage, and appropriate improvements to the parking lot surface. These improvements will serve to replace the large parking area in the Royal Valley Building that is heavily used by City Hall and Police Department staff.

The fenced portion of the parking lot will not take up the entire parcel. A 'pad' facing 8th Avenue will be reserved for a future City facility. At this time, the costs for these items have not been finalized. Staff will develop a scope of work and estimated costs for these improvements and return to the Council to request additional funding as necessary. The expected funding source for the parking lot improvements are the 2011 RDA Bond proceeds.

FISCAL IMPACT

All costs for the mitigation of hazardous materials and demolition will come from available 2011 RDA Bond proceeds and have no impact to the General Fund. The use of a portion of 2011 RDA Bond proceeds is possible through the State Department of Finance approval of the City's Last & Final ROPS and Bond Expenditure Agreement from October 2017.

All costs associated with engineering, permitting, construction, and maintenance for the solar power arrays are born by the solar provider. The City of Reedley has no costs associated with this project other than the agreement to purchase the power produced by the systems.

2011 RDA Bond Proceeds

- On May 22, 2018, the City Council authorized the use of \$20,000 of 2011 RDA Bond proceeds to remediate a blighted property by demolishing a burned out abandoned home and ancillary structures located at 1527 S. Frankwood Avenue.
- On April 10, 2018, the City Council appropriated \$250,000 in 2011 RDA Bond proceeds to complete funding for the Luke Trimble Park Rehabilitation Project, which is underway.
- In May 2016, the City Council authorized the use of 2011 RDA Bond proceeds for the purchase of 0.51 acres located as the northeasterly corner of G Street and East Avenue, at a final cost of \$182,486.

ATTACHMENTS

1. Resolution No. 2018-085 Approving Contract with David Knott, Inc.
2. Draft Public Improvement Agreement
3. Budget Resolution No. 2018-086 for the mitigation and demolition of the Royal Valley Building
4. Amendment to Solar Power Purchase Agreement

RESOLUTION NO. 2018-085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVING A CONTRACT TO THE MOST QUALIFIED FIRM FOR THE ROYAL VALLEY BUILDING DEMOLITION AND REMEDIATION OF ANY HAZARDOUS MATERIALS AND GRANT THE CITY MANAGER AUTHORITY TO APPROVE CHANGE ORDERS UP TO 15% OF THE CONTRACTED AMOUNT

WHEREAS, the City of Reedley issued a Notice to Bidders for the Demolition of the Royal Valley Building; and

WHEREAS, the City selection committee received, opened, read aloud eight (8) bids which ranged from \$328,828 to \$620,267; and;

WHEREAS, the lowest, most responsive and responsible bid was submitted by David Knott, Inc; and

WHEREAS, the Contractor and the selection committee negotiated the scope of services and fee; and

WHEREAS, on November 13, 2018 a Public meeting was held at the City of Reedley, City Council Chamber, at 845 "G" Street, and received a staff report to award a construction contract to the for the base bid and add alternative.

NOW, THEREFORE, BE IT RESOLVED that the City of Reedley, City Council, using their independent judgment approved this resolution based on the following:

1. The above recitals are true and correct; and
2. That the City Manager enter into a contract for the Royal Valley Demolition Project, with the most qualified firm David Knott, Inc.
3. The City Manager is hereby authorized to execute contract change orders to the contract for this project and shall not exceed approximately 15% of the total contracted amount without prior approval of this City Council.
4. This resolution is effective immediately upon adoption.

This foregoing resolution is hereby approved and adopted at a regular meeting of the City Council of the City of Reedley held on the 13th day of November, 2018, by the following vote:

AYES: Beck, Soleno, Fast, Betancourt.

NOES: None.

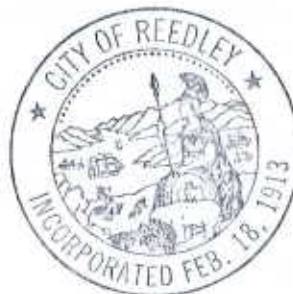
ABSTAIN: None.

ABSENT: Pinon.


Anita Betancourt, Mayor

ATTEST:


Sylvia B. Plata, City Clerk



**BUDGET AMENDMENT
RESOLUTION 2018-086**

The City Council of the City of Reedley does hereby amend the 2018-19 Budget as follows:

Section I - Additions:

FUND-DEPT.OBJECT		AMOUNT
080-4260.5070	Royal Valley Demolition Project	\$407,500

Purpose: Demolition and removal of all materials of the Royal Valley Building, including a 15% demolition contract contingency, required testing and studies, and estimate of City staff time for project management.

Section II – Source of Funding:

FUND BALANCE		AMOUNT
080-2710	2011 RDA Bond Proceeds	\$407,500

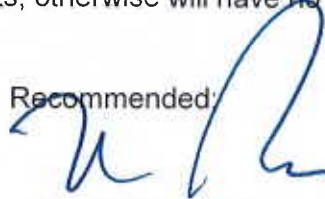
Impact: This allocation of 2011 RDA Bond proceeds will reduce the remaining available balance of proceeds for other projects; otherwise will have no other effect on other City funds.

Reviewed:



Assistant City Manager

Recommended:



City Manager

The foregoing resolution was approved by the City Council of the City of Reedley on November 13, 2018 by the following vote:

AYES: Fast, Beck, Soleno, Betancourt.

NOES: None.

ABSTAIN: None.

ABSENT: Pinon.

APPROVED:



Anita Betancourt, Mayor

ATTEST:



Sylvia Plata, City Clerk

