

**CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 JUL -1 PM 5:00

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency  
DATE: July 13, 2004

RE: **RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH SWINERTON BUILDERS FOR CONSTRUCTION MANAGER AT-RISK SERVICES TO INCLUDE THE CONSTRUCTION PHASE OF THE POLICE ADMINISTRATION BUILDING WEAK STORY SEISMIC RETROFIT PROJECT AND TO EITHER (1) INCREASE THE CONTRACT COMPENSATION AMOUNT BY \$8 MILLION FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$8.5 MILLION IF THE FEDERAL GOVERNMENT APPROVES FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") GRANT FUNDS FOR THE PROJECT OR, (2) INCREASE THE CONTRACT COMPENSATION AMOUNT BY \$5.5 MILLION OF MEASURE I FUNDING (BOND FUNDING FOR PUBLIC SAFETY PURPOSES) FOR A TOTAL CONTRACT AMOUNT OF \$6 MILLION, IF FEMA GRANT FUNDS ARE NOT APPROVED**

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**SUMMARY**

A resolution has been prepared authorizing the City Administrator, or her designee, to amend the professional services contract for Construction Manager At-Risk Services with Swinerton Builders by \$8,000,000 to include the construction phase of the Police Administration Building Weak Story Seismic Retrofit Project ("project") for a total contract amount not to exceed \$8,500,000 contingent upon approval of a grant extension from the Federal Emergency Management Agency ("FEMA"). If the FEMA grant extension is not approved, the contract will be amended by only \$5,500,000 for a total contract amount not to exceed \$6,000,000 using Measure I funding. Should the project need additional funding to complete the work, staff will return to Council to request approval to appropriate additional funds. The current contract with Swinerton Builders, authorized under Resolution No. 77891 C.M.S. (June 17, 2003), is for an amount not to exceed \$500,000 for Pre-construction phase services on the project.

Swinerton Builders is nearing completion with pre-construction phase services (cost estimating, scheduling, value engineering and constructability reviews, and managing subcontractor bidding and/or negotiations) for the project. In the next phase, the Construction phase, Swinerton Builders will provide General Contractor services (executing contracts with subcontractors, managing and coordinating the work of subcontractors, and monitoring construction progress). Authorization for a contract amendment in the amount of \$8,000,000 is recommended at this time so that construction can begin, and police personnel can work in a safer work environment as soon as possible.

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The Police Administration Building (PAB) is an essential services facility that currently has multiple structural and space deficiencies. Feasibility studies prepared by KPA Consulting Engineers, Inc. confirm that the existing PAB is designed only to a fraction of the seismic force levels that current building codes require for an essential services building. The proposed weak story retrofit involves adding shear walls from the basement to the bottom of the third floor of the building. It is a complex project involving the abatement of hazardous materials, major seismic construction, and interior modifications in a fully occupied facility that houses critical police functions and serves the public on a round-the-clock basis. This project is consistent with the Mayoral and City Council goals of “Make Oakland a Safe City” and “Maintain and Enhance Oakland’s Physical Assets”. The project is located in Council District 3.

### **FISCAL IMPACT**

The resolution will authorize an amendment to an existing professional services contract with Swinerton Builders to include the construction phase of the project, for a total contract amount not to exceed \$8,500,000. It is anticipated that funding for this project will come from the Hazard Mitigation Grant in the amount of \$7,518,375 that FEMA awarded to the City in 1999 (Fund 2146, Project C58691). The FEMA grant expired on December 30, 2003 and the City has submitted a request for a grant deadline extension. The State Office of Emergency Services, which administers the FEMA grant, submitted a letter to FEMA on April 19, 2004, supporting the City’s request for a deadline extension to July 31, 2005, and we are awaiting a response from FEMA on this deadline extension request. If approved by FEMA, the Hazard Mitigation grant will be used first and the Measure I funds will be used to cover the balance. \$6,000,000 in Measure I funds is currently available. (Org. 92290, Project No. C58690, Fund 5008)

If the FEMA grant extension is not approved, the contract will be amended by only \$5,500,000 and funding will be provided by the Measure I funds. Should the project need additional funding to complete the work, staff will return to Council to request approval to appropriate additional funds.

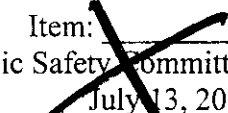
The required assessments for Public Art and Contract Compliance fees will be set aside in the appropriate accounts upon approval of this resolution. The additional Operation and Maintenance costs resulting from this project will be calculated and brought forward for discussion during the FY 2005-07 Budget Development process.

### **BACKGROUND**

#### ***Police Administration Building Weak Story Seismic Retrofit***

The existing Police Administration Building (“PAB”) is located at 455 Seventh Street and was constructed in 1958. The building is located in one of Oakland’s most seismically active areas.

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The building does not meet current seismic codes and was rated “POOR” in its seismic performance evaluation based on criteria developed by the University of California. The “POOR” rating equates to significant structural and nonstructural damage and appreciable life hazards in the event of a major seismic disturbance. The seismic retrofit project will correct the building’s most significant structural weakness and reduce life safety hazards by correcting the “weak stories” between the basement and 3<sup>rd</sup> floor. The “weak stories” result from discontinuities in the shear walls between the basement to the 3<sup>rd</sup> floor. The seismic retrofit work will be performed while the building is fully occupied. Approximately 35 police personnel will need to be temporarily relocated during the construction work. Prior to the seismic work, hazardous materials abatement will be performed in the areas affected by the seismic work.

### ***Project Approach***

Resolution No. 77891 C.M.S., approved on June 17, 2003, authorized “CM/GC” (i.e., Construction Manager/General Contractor) as the appropriate method of project delivery for the PAB project. Under the CM/GC project delivery method, The CM/GC provides the City with a “fixed price” and assumes financial responsibility for delivering the project at that price. It is anticipated that the fixed price will be less than \$8,000,000.

As the CM/GC, Swinerton has provided pre-construction services (i.e., the Construction Manager part of the CM/GC method) including cost estimating, scheduling, value engineering, and constructability reviews under the first phase of the contract. The pre-construction phase of the project is currently nearing completion.

As the CM/GC, Swinerton’s responsibilities also include the Construction phase of the project, including hiring all trade subcontractors for the project. The CM/GC is required to pre-qualify subcontractor pools by trade and competitively bid out the construction work for the project to these pools. Unlike the traditional general contractor approach, the CM/GC will present all bids to the City Administrator for review and acceptance or rejection if bids are over-budget or non-responsive, in which case the CM/GC may be required to reject and negotiate bids within budget. The fixed fee for subcontractor costs will be established upon completion of the subcontractor bidding/negotiation process. At that time, the fixed price for the entire project will be established, ensuring a higher degree of cost control on the project.

In order to transition from the pre-construction phase to the Construction phase, providing General Contractor services (executing contracts with subcontractors, managing and coordinating the work of subcontractors, and monitoring construction progress), Council approval of a contract amendment in the amount of \$8,000,000 for a total contract amount not to exceed \$8,500,000 is necessary at this time.

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## KEY ISSUES AND IMPACTS

The pre-construction phase of the project is nearing completion and the CM/GC is ready to begin the subcontractor bidding process and construction phase. Construction is anticipated to last 10 months.

The CM/GC will be required in the professional services agreement to meet the City and Redevelopment Agency's Local Business Enterprise Programs (LBE/SLBE) for the entire project. There will be additional opportunities for L/SLBE participation in the construction phase as the CM/GC will be required to advertise and solicit subcontract bids in accordance with LBE/SLBE programs.

## SUSTAINABLE OPPORTUNITIES

Economic: The project will generate business tax, sales tax, and other revenues for the City for work on the project.

Environmental: Construction of the project will take into consideration green building technologies and to the extent feasible, utilize recycled materials in the products specified and explore other environmental opportunities such as waste reduction and energy conservation. For example, replacing lighting fixtures with energy efficient fixtures and providing more natural light into the lobby will reduce energy consumption. In addition, a hazardous materials investigation and abatement will be performed prior to performing the seismic improvements.

Social: There are no social equity opportunities in this project.

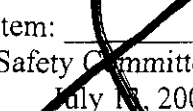
## DISABILITY AND SENIOR CITIZEN ACCESS

The project will provide benefits to the disabled and senior citizen communities by improving accessibility within the PAB. On floors that are affected by construction, facilities such as restrooms, drinking fountains, public telephones, elevator cabs, and path-of-travel will be upgraded in accordance with applicable state accessibility standards and the Americans with Disabilities Act.

## RECOMMENDATION(S) AND RATIONALE

It is recommended that the City Administrator, or her designee, be authorized to amend the professional services contract for Construction Manager At-Risk Services with Swinerton Builders by \$8,000,000 to include the construction phase of the PAB Weak Story Seismic

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Retrofit project for a total contract amount not to exceed \$8,500,000 contingent upon approval of the FEMA grant extension. The current contract with Swinerton Builders is for an amount not to exceed \$500,000 for pre-construction phase services on the project. Alternatively, if the FEMA grant extension is not approved, then the contract will be amended by only \$5,500,000 for a contract amount not to exceed \$6,000,000 using Measure I funding.

The existing PAB is designed only to a fraction of the seismic force levels that current building codes require for an essential services building. The PAB is an essential services facility that houses police functions that are crucial to the daily operations of the City and the well being of its citizens. This contract amendment will help ensure that police personnel are provided a safer work environment by enabling the City to make necessary structural improvements to the PAB.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



**RAUL GODINEZ II**

Director, Public Works Agency

Reviewed by:

David Lau, P.E., Division Manager

Prepared by:

Calvin Hao, A.I.A., CIP Coordinator  
Project Management Section

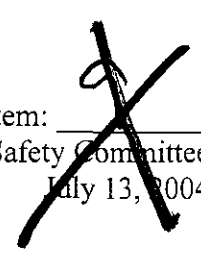
APPROVED AND FORWARDED TO THE  
PUBLIC SAFETY COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

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**CITY COUNCIL**  
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# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_

FILED  
OFFICE OF THE CITY CLERK  
C.M.S. OAKLAND

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

2004 JUL - 1 PM 4:59

Requires the two-thirds vote of the Council

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH SWINERTON BUILDERS FOR CONSTRUCTION MANAGER AT-RISK SERVICES TO INCLUDE THE CONSTRUCTION PHASE OF THE POLICE ADMINISTRATION BUILDING WEAK STORY SEISMIC RETROFIT PHASE 1 PROJECT AND TO EITHER (1) INCREASE THE CONTRACT COMPENSATION AMOUNT BY \$8 MILLION FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$8.5 MILLION IF THE FEDERAL GOVERNMENT APPROVES FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") GRANT FUNDS FOR THE PROJECT OR, (2) INCREASE THE CONTRACT COMPENSATION AMOUNT BY \$5.5 MILLION OF MEASURE I FUNDING (BOND FUNDING FOR PUBLIC SAFETY PURPOSES) FOR A TOTAL CONTRACT AMOUNT OF \$6 MILLION, IF FEMA GRANT FUNDS ARE NOT APPROVED**

**WHEREAS**, the existing Police Administration Building ("PAB"), located at 455 Seventh Street is located in one of Oakland's most seismically active areas; and

**WHEREAS**, the PAB does not meet current seismic codes and was rated "POOR" in its seismic performance evaluation, which equates to significant structural and nonstructural damage and appreciable life hazards in a major seismic disturbance; and

**WHEREAS**, the PAB Weak Story Seismic Retrofit Project involves complex coordination issues such as the abatement of hazardous materials, major seismic construction, and interior modifications in a fully occupied facility; and

**WHEREAS**, the PAB is an essential services facility that serves the public on a round-the-clock basis, and that houses police functions crucial to the daily operations of the City and the well being of its citizens; and

**WHEREAS**, the PAB Weak Story Seismic Retrofit Project will correct the most significant structural weakness of the building - the "weak stories" between the basement and the 3<sup>rd</sup> floor; and

**WHEREAS**, a project delivery method known as Construction Manager At-Risk is being used, and this method is also known as "CM/GC" (Construction Manager/General Contractor); and

**WHEREAS**, on June 17, 2003, Council authorized under Resolution No. 77891 C.M.S. a professional services contract with Swinerton Builders to provide CM/GC services for the seismic retrofit of the PAB; and

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**WHEREAS**, Swinerton Builders has completed the Pre-Construction phase services and the Construction phase is ready to be implemented; and

**WHEREAS**, under the CM/GC arrangement, the CM/GC will advertise and solicit competitive bids for the construction work for the seismic retrofit project, and will pre-qualify pools of subcontractors by trade that will participate in this competitive bid process; and

**WHEREAS**, upon completion of the subcontractor bidding/negotiation process, the fixed price for subcontractor costs, as well as the fixed price for the entire project, will be established; and

**WHEREAS**, once the fixed price for the entire project has been established, a contract amendment to incorporate the CM/GC's commitment to deliver the project in accordance with the full construction price is necessary to transition to the construction phase; and

**WHEREAS**, funding for the contract amendment is available in Measure I (Org. 92290, Project No. C58690, Fund 5008); and

**WHEREAS**, the City has submitted a grant deadline extension request to the Federal Emergency Management Agency ("FEMA") for the Hazard Mitigation Grant, and if approved, the FEMA funding will be used first and the balance will be covered by the Measure I funds; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work; and

**WHEREAS**, the City Council finds and determines that the performance of this contract is in the public interest because of economy; and

**WHEREAS**, the City Council finds that services under this contract will be temporary; and

**WHEREAS**, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator, or her designee, to amend the professional services contract with Swinerton Builders to include the construction phase of the Police Administration Building Weak Story Seismic Retrofit Project for a total contract amount not to exceed \$8,500,000 contingent upon approval of the FEMA grant extension; alternatively if the FEMA grant extension is not approved, then the contract will be amended by only \$5,500,000 for a total contract amount not to exceed \$6,000,000 using Measure I funds; and, be it

**FURTHER RESOLVED:** That the City hereby finds and determines that pursuant to Chapter 2.04, Article I, section 2.04.050.I.5, it is in the best interests of the City to waive bidding requirements of 2.04.050; and be it

**FURTHER RESOLVED:** That the City Administrator, or his designee, is hereby authorized to approve any subsequent amendments to or extensions of the CM/GC's agreement with the exception of those related to an increase in the total dollar amount of the agreement, provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

**FURTHER RESOLVED:** That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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