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MAY 24, 2005

IGNACIO DE LA FUENTE, PRESIDENT  
CITY COUNCIL  
OAKLAND, CALIFORNIA

PRESIDENT DE LA FUENTE AND MEMBERS OF THE CITY COUNCIL

**SUBJECT: RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO INCREASE THE CONSTRUCTION CONTRACT WITH MCGUIRE & HESTER FOR THE RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NUMBER C234930) BY \$581,882.99, FOR A TOTAL CONTRACT AMOUNT OF \$5,100,000.00.**

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**PURPOSE AND SCOPE**

In accordance with the Measure H Charter Amendment, which was passed by the voters at the General election of November 5, 1996, we have made an impartial financial analysis of the accompanying Proposed Resolution and Agenda Report. In making our analysis, we also asked for additional information and clarification from City staff.

The City Auditor is elected by the citizens of Oakland to serve as an officer in charge of an independent department auditing City government activities. The independence of the City Auditor is established by the City Charter.

Since the Measure H Charter Amendment specifies that our impartial financial analysis is for informational purposes only, we did not apply Generally Accepted Government Auditing Standards as issued by the Comptroller General of the United States. Moreover, the scope of our analysis was impaired by Administrative Instruction Number 137, effective May 21, 1997, which provides only two (2) weeks for us to plan, perform and report on our analysis. Due to this time constraint, we did not verify data contained in the Proposed Resolution and Agenda Report.

## **BACKGROUND**

The Proposed Resolution authorizes staff to change the base contract amount with McGuire & Hester from \$3,928,797.40 to \$5,100,000.00 and modify the scope of resurfacing work. The Council approved Resolution No. 78594 C.M.S. on June 1, 2004, which authorized a construction contract with McGuire & Hester for the Resurfacing of Certain City Streets in the City of Oakland for Fiscal Year 2003-2004 Project. McGuire & Hester was awarded the contract through competitive bid.

The Agenda Report accompanying Resolution 78594 C.M.S. included an attachment (Attachment B) listing the streets that would be resurfaced under the scope of the contract. There are forty-four streets of varying length to be resurfaced according to the Attachment B list. For example, item 1 lists 11<sup>th</sup> Street from Broadway to Madison Street for resurfacing. The winning bid price from McGuire & Hester was \$3,928,797.00, which subsequently became the contract amount to perform the resurfacing of these forty-four streets.

### **Change Orders**

The project specifications allowed for change orders up to 15% of the contract amount. Accordingly, the project cost could exceed the \$3,928,797.40 contract amount by \$589,319.61 without return to Council.

### **Scope of Resurfacing Work**

The Agenda Report accompanying the Proposed Resolution included an attachment (Attachment A) with a modified list of streets that would be resurfaced compared to those streets originally listed in Attachment B for the base contract. The following table shows the streets added and removed according to the information provided on the original list (Attachment B for Resolution 78594 C.M.S.) and the proposed list (Attachment A for the Proposed Resolution):

| <b>Streets Removed</b>  | <b>Streets Added</b>  |
|---|---|
| 1. 11 <sup>th</sup> St. from Broadway to Madison St.                              | 1. 14 <sup>th</sup> St. from Broadway to Oak St.                  |
| 2. 13 <sup>th</sup> St. from Broadway to Fallon St.                               | 2. La Salle Ave. from Hwy 13 to Tyson Cr.                         |
| 3. E 17 <sup>th</sup> St. from Fruitvale Ave. to North End                        | 3. Market Street from W. Macarthur Blvd. to 57 <sup>th</sup> St.  |
| 4. E. 18 <sup>th</sup> St. from Fruitvale Ave. to North End                       | 4. 80 <sup>th</sup> Ave. from End w/o Dowling to end e/o Idlewood |
|   | 5. Courtland Ave. from High St. to Melrose Ave.                   |
| <b>Total number of streets listed in Attachment B for Resolution 78594 C.M.S.</b> |   |
|   | 44  |
| <b>Net Increase</b>   |   |
|   | 1   |
| <b>Total number of streets listed in Attachment A for the Proposed Resolution</b> |   |
|   | 45  |

The Agenda Report describes additional work that will be performed, but is not shown in the Attachment A list. These consist of:

“...additional asphalt work on Shepherd Canyon Road to fix a hazardous driveway condition and to install additional berms to control drainage, grinding and asphalt repairs on 2<sup>nd</sup> Street to match new sidewalk, and curb and gutter installed as part of the West Oakland Bay Trail.” (Page 2)

According to the Agenda Report, the project will also encompass the repair of sidewalks damaged by trees, curb ramps and gutters. Market Street and Foothill Boulevard will be relined to accommodate new bicycle lanes. There will be approximately 53 lane miles resurfaced.

**FISCAL IMPACT**

The contract value increase incorporates the change order amount of \$589,319.61 already allowable under the project specifications and an additional amount as follows:

|                            |                   |                     |                       |
|----------------------------|-------------------|---------------------|-----------------------|
| Base contract              |                   | \$3,928,797.40      |                       |
| Change orders:             |                   |                     |                       |
| Previously allowable       | \$589,319.61      |                     |                       |
| Proposed additional amount | <u>581,882.99</u> | <u>1,171,202.60</u> |                       |
| Proposed contract          |                   |                     | <u>\$5,100,000.00</u> |

The project funds are available from a grant provided by the Alameda County Transportation Improvement Act (ACTIA).

**Simple Average Cost**

Dividing the base contract amount by the number of streets to be resurfaced under the scope of the base contract as listed in Attachment B, calculates a simple average cost to resurface of \$89,290.85 per street. The simple average cost increases to \$113,333.33 per street based on the proposed not to exceed contract amount and total number of streets listed in Attachment A:

|                          |                |   | <u>Number of streets</u> |   | <u>Simple average cost</u> |
|--------------------------|----------------|---|--------------------------|---|----------------------------|
| Base contract amount     | \$3,928,797.40 | ÷ | 44                       | = | \$89,290.85                |
| Proposed contract amount | \$5,100,000.00 | ÷ | 45                       | = | \$113,333.33               |

As stated previously, there is additional work to be performed under the proposed contract amount than listed in Attachment A.

**CONTRACTOR SELECTION PROCESS**


The proposed additional amount of \$581,882.99 will not be awarded through competitive bid. According to the Agenda Report, there would be a potential increase in asphalt unit costs if the \$581,882.99 were spent on a new comparatively smaller project. According to staff, the current project allows for efficiencies such as from equipment already mobilized and savings from quantity discounts. Also, the ACTIA grant has a reimbursement request deadline of December 31, 2005.


**CONCLUSION**

Before approving the Proposed Resolution, the Council should consider the modification of the scope of the resurfacing contract will amount to an increase of up to \$1,171,202.00 more than the original contract amount of \$3,928,797.40. A portion of this increase, \$581,882.99, would be awarded without competitive bid.

Prepared by:

Issued by:

  
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Philip Lim  
Deputy City Auditor

  
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Roland E. Smith, CPA, CFS  
City Auditor

Report completion date:  
May 16, 2005