

CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

AGENDA REPORT

2017 MAY 11 PM 3:19

TO: Sabrina B. Landreth
City Administrator

FROM: Christine Daniel,
Acting Director, DOT

SUBJECT: Contract Limit Increase – 23rd/29th
Avenue Rail Crossing Project-G381112

DATE: April 17, 2017

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution (1) Waiving Advertising And Competitive Bidding And (2) Authorizing The City Administrator Or Her Designee, To Amend The 23rd Avenue/ 29th Avenue Rail Crossing Project Construction Contract (No. G381112) With McGuire And Hester Construction Increasing The Total Contract Amount From Five Hundred Eighty-Seven Thousand Nine Hundred Fifty-Five Dollars (\$587,955.00) To Eight Hundred Seventeen Thousand Nine Hundred Fifty-Five Dollars (\$817,955.00).

EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator or Designee to amend the existing 23rd/29th Avenue Rail Crossing Project construction contract (No. G381112) with McGuire and Hester Construction and increase the total contract limit to \$817,955.00: an increase of \$230,000.00.

The additional \$230,000.00 in construction requires advertising and competitive bidding under the City bid procedure, OMC 2.04.050. The City may, under OMC 2.04.050.1.5, waive the competitive bidding requirement if authorized by the City Council after a finding and determination that it is in the best interests of the City.

The additional construction, largely full paving of the streets affected by the rail crossing project, will be funded by the State of California Department of Transportation (Caltrans) under Cooperative Agreement No. 4-2265-A2 amendment as part of the Caltrans 5th Avenue Seismic Retrofit Project. Under the Cooperative Agreement these funds expire by June 30, 2017. It is in the best interest of the City to add the work to the existing construction contract G381112 in order to meet the funding deadline.

The Park Street Triangle is comprised of 23rd Avenue, 29th Avenue, Ford Street, and the Park Street Bridge into the City of Alameda. This project is located in Council District 5 as shown in **Attachment A**.

Item: _____
Public Works Committee
May 23, 2017

BACKGROUND / LEGISLATIVE HISTORY

On February 6, 2009 the City Council authorized the City Administrator by Resolution No. 81783 to enter into an agreement with the State of California Department of Transportation (Caltrans) to provide certain railroad safety and community improvements around the Fruitvale Railroad Track and in connection with the Caltrans 5th Avenue Seismic Retrofit Project.

The Caltrans Cooperative Agreement No. 4-2265 executed on March 20, 2009 included \$1,916,312.50 in Railroad Safety Improvements and \$1,242,500.00 in Community Improvements. The community improvements included sidewalks and shoulder work in the Jingle Town Area of East Oakland that have been completed. The community improvements also included \$250,000.00 towards the study of the Park Street Triangle area. The Park Street Triangle area consists of the 23rd Avenue, 29th Avenue, and Ford Street, and adjoining streets including the Park Street Bridge into the City of Alameda.

The City awarded a contract to McGuire and Hester Construction in 2013 for the 23rd Ave/29th Ave Rail Crossing Improvement Project (G381112) in the amount of \$470,364.00 with an allowable contract cap limit of \$587,955.00 for rail crossing improvements along the Fruitvale Track crossing 23rd and 29th Avenues in the Park Street Triangle area. The improvements include the reconfiguration of 23rd and 29th Avenue intersection and a railroad track traffic signal. Paving of streets in the area however was not initially included in the scope of the contract.

The Park Street Triangle area is undergoing significant improvements and changes as part of the 23rd and 29th Avenue Interchange project at Interstate 880. City streets affected by this project include 23rd Avenue, Ford Street, and 29th Avenue.

The Cooperative Agreement with Caltrans expires June 30, 2017. The community improvements including the Park Street Triangle need to be completed before the agreement expiration.

ANALYSIS AND POLICY ALTERNATIVES

McGuire and Hester Construction was awarded a competitive construction contract in 2015 to construct rail crossing and related roadway and pedestrian safety improvements as part of the City's agreement with Caltrans, fully funded by Caltrans as part of the I880 5th Avenue Bridge Retrofit project.

The agreement also included a line item of \$250,000 for a possible Park Street Triangle Study to consider future circulation changes. However, in the years since the agreement was executed, the Central Estuary Study (managed by the Planning Building Department) was completed, and the I880/23rd/29th Avenue project has broken ground, making the Park Street Triangle Study unnecessary. The greater need is to take advantage of Caltrans funding to repave the streets in and around the Park Street Triangle.

This \$250,000 has been reprogrammed through an amendment of the Caltrans agreement. The estimated cost for repaving of the streets is \$230,000 and the remaining \$20,000 will be used for staff costs including construction inspection.

It is in the best interest of the City to waive competitive bidding and instead increase the current contract with McGuire and Hester for several reasons:

- McGuire and Hester has previously gone through a competitive bid process for the current construction work in progress,
- McGuire and Hester, possessing a Class 'A' engineering contractor's license, has capability to perform the additional paving that is proposed,
- McGuire and Hester is an Oakland-based construction firm, and
- Given the short timeframe for expiration of the agreement with Caltrans, bidding a separate contract would not be timely.

FISCAL IMPACT

Funding for the Park Street Triangle roadway repair will be paid by Caltrans through Cooperative Agreement No. 4-2265; and funds are available in Project 1001015 (G381112), Fund 2140, Organization 92246, and Account 57412.

PUBLIC OUTREACH / INTEREST

The Caltrans Cooperative Agreement Railroad Safety Improvements and Community Improvements were presented and discussed with the Jingletown Community through notices and a public meeting in 2009, prior to the final agreement. The meeting was also attended by Caltrans, Union Pacific Railroad, and CA Public Utility Commission.

The Community Improvements were developed and reviewed by the Jingletown residents through several meetings and correspondences with the City Engineering and Design Division that managed the Community Improvements. The work included roadway shoulder and sidewalk improvements along Lancaster St. /Chapman St; Glascock St; Peterson St; Derby St; and Fruitvale Ave/E.7th Street.

COORDINATION

The Office of the City Attorney and the City's Controller's Bureau reviewed this report and resolution.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The Contractor Performance Evaluation for McGuire and Hester from a previously completed project is satisfactory and is included as **Attachment B**.

SUSTAINABLE OPPORTUNITIES

Economic: The new sidewalks and improved railroad crossings will serve the growing and developing homes and businesses in the Jingletown Neighborhood.

Environmental: The combined projects of the Caltrans Cooperative Agreement No. 4-2265 will improve the traffic safety at all of the railroad crossings associated with the Fruitvale Glascock Street Drill Track located in the Jingletown Area of East Oakland including the Park Street Triangle Area that leads into the City of Alameda. The improvements will include new traffic signals, signal coordination with the railroad, new sidewalks, ramps, pavement, signage, and striping throughout these areas.

Social Equity: The improvements included improved pedestrian and bicycle access along Fruitvale Avenue, 23rd Avenue, 29th Avenue, and Park Street leading to and from the City of Oakland and the City of Alameda.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Waiving Advertising and Competitive Bidding and Authorizing the City Administrator or Designee, to Amend the 23rd/29th Avenue Rail Crossing Project Construction Contract (No. G381112) with McGuire and Hester Construction from Five Hundred Eighty-Seven Thousand, Nine Hundred Fifty-Five Dollars (\$587,955.00) To Eight Hundred Seventeen Thousand, Nine Hundred Fifty-Five Dollars (\$817,955.00).

For questions regarding this report, please Peter Chun, Transportation Engineer, Transportation Services Division at (510) 238-7774.

Respectfully submitted,



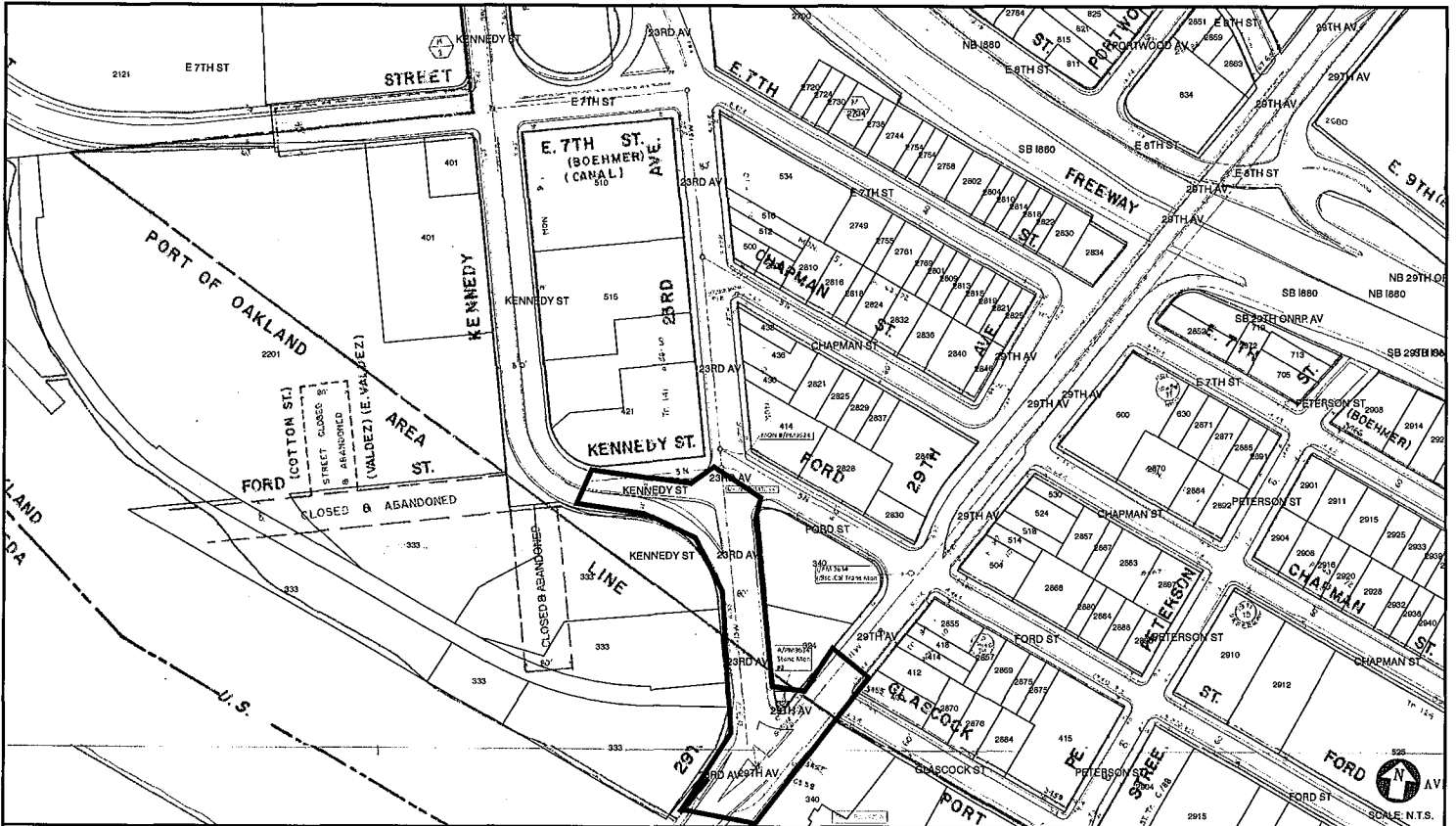
CHRISTINE DANIEL
Acting Director
Department of Transportation

Prepared by:
Peter Chun, T.E.
Transportation Engineer

Attachments:

A: *Project Location Map*

B: *Contractor Performance Evaluation*




CITY OF OAKLAND
 TRANSFORMATION SERVICES DIVISION
 350 FRANK H. OAKMAN PLAZA, SUITE 1244
 OAKLAND, CA 94612

Attachment - A
 23rd Ave/ 29th Ave Rail Crossing
 Improvements Project

No.	DATE	BY	REFERENCE

DATE: 04/12/2017

SHEET 1 OF 2

Attachment A

**Schedule L-2
City of Oakland
Public Works Agency
CONTRACTOR PERFORMANCE EVALUATION**

Project Number/Title: C366930
 Work Order Number (if applicable): _____
 Contractor: McGuire and Hester
 Date of Notice to Proceed: 03/26/2012
 Date of Notice of Completion: 03/13/2013
 Date of Notice of Final Completion: 03/13/2013
 Contract Amount: \$899,407.40
 Evaluator Name and Title: Phillip Fung, Resident Engineer

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

ASSESSMENT GUIDELINES:

Outstanding (3 points)	Performance among the best level of achievement the City has experienced.
Satisfactory (2 points)	Performance met contractual requirements.
Marginal (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
Unsatisfactory (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

Attachment B

C66 Contractor Evaluation Form Contractor: McGuire and Hester Project No. C366930

Attachment B

WORK PERFORMANCE

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
1	Did the Contractor perform all of the work with acceptable Quality and Workmanship?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1a	If problems arose, did the Contractor provide solutions/coordinate with the designers and work proactively with the City to minimize impacts? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Was the work performed by the Contractor accurate and complete? If "Marginal or Unsatisfactory", explain on the attachment and provide documentation. Complete (2a) and (2b) below.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2a	Were corrections requested? If "Yes", specify the date(s) and reason(s) for the correction(s). Provide documentation.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
2b	If corrections were requested, did the Contractor make the corrections requested? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Was the Contractor responsive to City staff's comments and concerns regarding the work performed or the work product delivered? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Were there other significant issues related to "Work Performance"? If Yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Overall, how did the Contractor rate on work performance? The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

TIMELINESS

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)? If "Marginal or Unsatisfactory", explain on the attachment why the work was not completed according to schedule. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Was the Contractor required to provide a service in accordance with an established schedule (such as for security, maintenance, custodial, etc.)? If "No", or "N/A", go to Question #10. If "Yes", complete (9a) below.			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
9a	Were the services provided within the days and times scheduled? If "Marginal or Unsatisfactory", explain on the attachment and specify the dates the Contractor failed to comply with this requirement (such as tardiness, failure to report, etc.). Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Did the Contractor provide timely baseline schedules and revisions to its construction schedule when changes occurred? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Did the Contractor furnish submittals in a timely manner to allow review by the City so as to not delay the work? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Were there other significant issues related to timeliness? If yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
13	Overall, how did the Contractor rate on timeliness? The score for this category must be consistent with the responses to the questions given above regarding timeliness and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

FINANCIAL

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City? Number of Claims: _____ Claim amounts: \$ _____ Settlement amount: \$ _____				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
18*	Overall, how did the Contractor rate on financial issues? The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

COMMUNICATION

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
19	Was the Contractor responsive to the City's questions, requests for proposal, etc.? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Did the Contractor communicate with City staff clearly and in a timely manner regarding:					
20a	Notification of any significant issues that arose? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20b	Staffing issues (changes, replacements, additions, etc.)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20c	Periodic progress reports as required by the contract (both verbal and written)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20d	Were there any billing disputes? If "Yes", explain on the attachment.				<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
22	Overall, how did the Contractor rate on communication issues? The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

SAFETY

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
23	Did the Contractor's staff consistently wear personal protective equipment as appropriate? If "No", explain on the attachment.				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
24	Did the Contractor follow City and OSHA safety standards? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
26	Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
27	Was the Contractor officially warned or cited for breach of U.S. Transportation Security Administration's standards or regulations? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
28	Overall, how did the Contractor rate on safety issues? The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

OVERALL RATING

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

- 1. Enter Overall score from Question 7 2.0 X 0.25 = .50
- 2. Enter Overall score from Question 13 2.0 X 0.25 = .50
- 3. Enter Overall score from Question 18 2.0 X 0.20 = .40
- 4. Enter Overall score from Question 22 2.0 X 0.15 = .30
- 5. Enter Overall score from Question 28 2.0 X 0.15 = .30

TOTAL SCORE (Sum of 1 through 5): 2.00

OVERALL RATING: 2.00

- Outstanding: Greater than 2.5
- Satisfactory: Greater than 1.5 & less than or equal to 2.5
- Marginal: Between 1.0 & 1.5
- Unsatisfactory: Less than 1.0

PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.


Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-

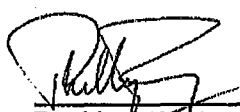
responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

COMMUNICATING THE EVALUATION: *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

 8/23/13
Contractor / Date

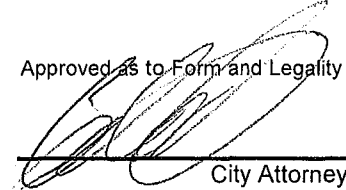
 5/7/13
Resident Engineer / Date

 5/9/13
Supervising Civil Engineer / Date

ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:

Use this sheet to provide any substantiating comments to support the ratings in the Performance Evaluation. Indicate before each narrative the number of the question for which the response is being provided. Attach additional sheets if necessary.

2017 MAY 11 PM 3:19



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION (1) WAIVING ADVERTISING AND COMPETITIVE BIDDING AND (2) AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE, TO AMEND THE 23RD AVENUE/ 29TH AVENUE RAIL CROSSING PROJECT CONSTRUCTION CONTRACT (NO. G381112) WITH MCGUIRE AND HESTER CONSTRUCTION INCREASING THE TOTAL CONTRACT AMOUNT FROM FIVE HUNDRED EIGHTY-SEVEN THOUSAND NINE HUNDRED FIFTY-FIVE DOLLARS (\$587,955.00) TO EIGHT HUNDRED SEVENTEEN THOUSAND NINE HUNDRED FIFTY-FIVE DOLLARS (\$817,955.00).

WHEREAS, on February 6, 2009, the City Council approved Resolution number 81783 C.M.S. authorizing the City Administrator to enter into a letter of understanding and cooperative agreement with the State of California Department of Transportation (CALTRANS) to provide certain railroad safety and community improvements around the Fruitvale Railroad Track in connection with the CALTRANS 5th Avenue Retrofit Project; and

WHEREAS, on March 20, 2009, the City entered into CALTRANS Cooperative Agreement No. 4-2265 to provide the City \$1,916,312.50 in Railroad Safety Improvements and \$1,242,500.00 in Community Improvements.; and

WHEREAS, \$250,000.00 of the Community Improvements were allocated to the Park Street Triangle which includes 23rd Avenue, 29th Avenue and Ford Street; and these funds were approved by CALTRANS for roadway resurfacing and repair under the Cooperative Agreement Addendum No. 4-2265; and

WHEREAS, the City Council approved Resolution number 84887 C.M.S awarding a construction contract to McGuire and Hester Construction for the 23rd Avenue /29th Avenue Rail Crossing Project (G381112) in the amount of \$470,364.00 for as part of the Railroad Safety Improvements of Agreement No. 4-2265 ; and

WHEREAS, staff now recommends awarding the scope of work for the Park Street Triangle Area roadway resurfacing and repair to McGuire and Hester Construction in an amount not to exceed \$230,000; and

WHEREAS, the City Administrator's authority to amend and increase the said McGuire and Hester Construction contract amount is limited to twenty-five percent (25%) in

Change Orders for a total contact limit of \$587,955.00, which will not accommodate the additional \$230,000 for the Park Street Triangle Area work; and

WHEREAS, Oakland Muni Code (OMC) Section 2.04.050.A requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination by the City in any one transaction that exceeds \$50,000.00; and

WHEREAS, OMC section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirement upon a finding and determination by the City Council that it is in the best interests of the City to do so; and

WHEREAS, the CALTRANS Cooperative Agreement No. 4-2265 will expire on June 30, 2017 and the Park Street Triangle roadway work is needed to be completed before the expiration date or the \$250,000.00 will be lost; and

WHEREAS, there are funds available in Project 10001015 (G381112), Fund 2140, Organization 92246, and Account 57412; now, therefore, be it

RESOLVED: That pursuant to OMC Section 2.04.050.I.5, the City Council finds and determines that it is in the best interest of the City to waive the advertising and competitive bidding in order to meet the requirements and deadline of CALTRANS Cooperative Agreement No. 4-2265 and award the roadway resurfacing and repair in the Park Street Triangle area of Oakland; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designee to execute an amendment of the construction contract (G3811112) with McGuire and Hester Construction to add the Park Street Triangle roadway resurfacing and repair to the scope of work, to increase the total contract amount by two hundred thirty thousand dollars (\$230,000) for a revised grand contract total not to exceed eight hundred seventeen thousand nine hundred fifty-five dollars (\$817,955.00), and to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

FURTHER RESOLVED: That the contract amendment shall be reviewed and approved for form and legality by the City Attorney prior to execution and placed on file in the Office of the City Clerk,

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California