

# CITY OF OAKLAND

## AGENDA REPORT

OFFICE OF THE CITY ADMINISTRATOR

2007 MAR 27 PM 3:25

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency  
DATE: March 27, 2007

RE: **Resolution Amending Resolution No. 80186 C.M.S. Adopted On October 3, 2006 Which Appropriated \$1,693,550.00 Of City Funds For Emergency Response And Permanent Storm Mitigation Measures For McKillop Roadway Restoration Project To Appropriate An Additional \$1,906,450.00 (For A Total Project Appropriation Of \$3,600,000.00)**

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### SUMMARY

This resolution amends Resolution No. 80186 C.M.S. adopted October 3, 2006 appropriating \$1,693,550.00 for McKillop Roadway Restoration Project to appropriate an additional \$1,906,450.00 from the City emergency response funds to increase the total project funds to \$3,600,000.00, covering the estimated total project cost. The scope of work for this project was recently approved by the Federal Emergency Management Agency (FEMA) and these additional funds qualify for reimbursement from FEMA.

Status of all FEMA and Federal Highway Administration (FHWA) funded projects associated with the 2005-2006 winter storms will be provided in a separate report as those projects near their completion.

### FISCAL IMPACT

Approval of the proposed resolution will authorize the City to appropriate an additional \$119,153.00 from Measure B-ACTIA fund (local match) and staff anticipates receiving \$1,429,838.00 in Federal FEMA funds and \$357,459.00 in California State Emergency funds for the McKillop Roadway Restoration Project.

Approval of the proposed resolution allows payments to the City's construction contractor and consultant for the work in progress.

The additional funding will be appropriated to:

- Fund 2062 (FEMA 1646 DR-Spring Storms 2006), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310710 in the amount of \$1,429,838.00.

Item: \_\_\_\_\_  
Finance and Management Committee  
March 27, 2007

- Fund 2146 (California State Emergency), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310720 in the amount of \$357,459.00.
- Fund 2211 (Measure B-ACTIA), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310730 in the amount of \$119,153.00.

Revenues will be deposited into:

- Fund 2062 (FEMA 1646 DR-Spring Storms 2006), Organization 30242 (Street and Structures), Account 46128 (FEMA – 75 % Federal), and Project No. G310710 in the amount of \$1,429,838.00.
- Fund 2146 (California State Emergency), Organization 30242 (Street and Structures), Account 46229 (Miscellaneous State Grant), and Project No. G310720 in the amount of \$357,459.00.
- Fund 2211 (Measure B-ACTIA), appropriation within fund is non-reimbursable City's share of 6.25% which is \$119,153.00.

## KEY ISSUES AND IMPACTS

**McKillop Roadway Restoration.** On September 25, 2006 the City received two bids for the McKillop Roadway Restoration Project. The lowest bidder's price was \$1,551,033.00 and the second bidder's price was \$2,025,849.00. These prices reflected a temporary access ramp over private properties for the construction of a permanent retaining wall structure. However, the ongoing land movement within the private properties and instability of the access ramp became a growing concern during the award of the project. After discussions with the City's consulting engineers and the FEMA officials, revisions were made to the design in late November 2006. These revised plans became the basis of FEMA's approved scope of work for an additional retaining structure to the one originally shown in the bid documents and therefore, eliminating the need for the temporary access over unstable private properties.

Staff negotiated a new contract price with Condon Johnson & Associates, Inc., the lowest responsible bidder and an Oakland firm (see Attachment A for Contract Compliance Evaluation), for a final construction cost of \$2,655,883.00. The notice to proceed was issued to the contractor in December 2006 for this emergency project in order to prevent the regression of the slide into the roadway, underground utilities, and the homes on the upper section of the slope.

## PROJECT DESCRIPTION

The total estimated budget for this project is \$3,600,000.00 and includes the construction contingencies for underground work and engineering design and construction management. This project is currently under emergency construction as approved in Resolution No. 80186 C.M.S., and the projected completion is expected to be in July 2007. A total project fund of \$1,693,550.00 was approved for this project in Resolution No. 80186 C.M.S. An additional \$1,906,450.00 is required to complete the project. Specifically, the cost-sharing framework for necessary work is as follows:

Fund 2062	Fund 2146	Fund 2211	
Federal	State	Measure B	Total
75.00%	18.75%	6.25%	100.00%

## SUSTAINABLE OPPORTUNITIES

Economic: The authorization allows the appropriation of partially reimbursable State and Federal funds for permanent repairs to storm-damaged roadways and storm drainage systems. PWA will seek the maximum reimbursement of eligible costs from the appropriate State and Federal agencies to protect the City's financial resources to backfill the City fund from which these funds were appropriated.

Environmental: These projects will incorporate to the extent feasible recycled content building materials and explore other environmental opportunities such as waste reduction.

Social Equity: The construction of these storm mitigation measures will enhance the safety of residents and improve conditions for the immediate neighborhood.

## DISABILITY AND SENIOR CITIZEN ACCESS

Disability and senior citizen access is improved by these emergency projects to the extent that blocked roadways are reopened for the public's use.


**RECOMMENDATION AND RATIONALE**

It is recommended that the City Council adopt the resolution authorizing the City Administrator or her designees to: 1) amend Resolution No. 80186 C.M.S. for an additional \$1,906,450.00 to increase the total project funds for the McKillop Roadway Restoration Project to \$3,600,000.00, and 2) accept State and Federal emergency response funds from the State of California and FEMA agencies. Passage of this resolution will allow the City to subsequently recover the maximum amount of the expenditure for emergency reopening and permanent restoration work.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends approval of the resolution.

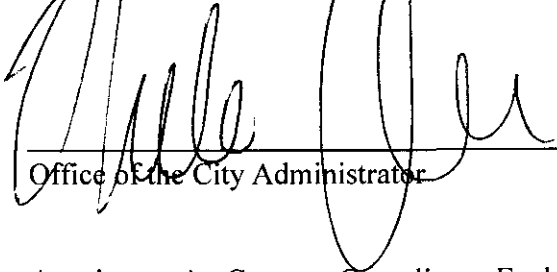
Respectfully submitted,

*for*   
\_\_\_\_\_  
Raul Godinez II, P.E.  
Director, Public Works Agency

Reviewed by:  
Michael Neary, P.E.  
Assistant Director, Public Works Agency  
Design & Construction Services

Prepared by:  
Emad Mirsaedi, P.E.  
Supervising Civil Engineer  
Engineering Design Division

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator

Attachment A: Contract Compliance Evaluation

## Attachment A

### Contract Compliance Evaluation



**OFFICE OF THE CITY ADMINISTRATOR**  
Contract Compliance & Employment Services Division

# Memo

To: Gwen McCormick - Contract Administrator Supervisor  
From: Dasco Munoz - CC&ES Contract Compliance Officer  
Through: Deborah Barnes - CC&ES Manager *Deborah Barnes*  
CC: Project Manager  
Date: September 28, 2006  
Re: McKillop Roadside Stabilization

SEP 29 11:33:28

Contract Compliance & Employment Services reviewed two (2) bids received in response to the above referenced project. Below is the outcome of our compliance evaluation for the twenty percent (20%) minimum participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

Company Name	Bid Amount	Proposed Participation							Banked Credits Eligibility	EBO Compliant ? Y/N
		Total L/SLBE	LBE	SLBE	Tracking	Total Credited	Adjusted Bid Amount	Bid Discounts		
Drill Tech Drilling and	\$2,025,849.00	8.39%	2.47%	5.92%	0%	8.39%	\$2,025,849	0%	0%	N
Condon-Johnson & Associates,	\$1,551,033.00	100.00%	86.43%	13.57%	100%	27.14%	\$1,551,033	2%	0%	Y

As noted above, Condon Johnson the lowest bidder exceeded the 20% L/SLBE requirement and is in compliance with the Equal Benefit Ordinance (EBO).

Should you have any questions you may contact Dasco Munoz at 238-3970

**Contract Compliance and Employment Services Evaluation Form**

**Project No.:** W325

**Project Name:** McKillop Roadside Stabilization

**Contractor:** Drill Tech Drilling and Shoring

**Contractor's Bid Amount:** 2,025,849.00

**Engineer's Estimate:** 1,212,248.10

**Over/Under the Engineers** 813,600.90

**Estimate:**

**Bid Discounted Amount:** \$0.00

**Discount Points:** 0%

**Discounted Bid Price:** \$2,025,849.00

1. Did the 20% requirements apply? **YES**

2. Did the contractor meet the 20% requirement? **NO**

a) % of LBE **2.47%**

b) % of SLBE **5.92%**

3. Did the contractor meet the Trucking requirement? **NO**

a) % of Local Trucking **0.00%**

4. Did the contractor received bid discount points?  
(If yes, list the points received) **NO**  
**0%**

5. Additional Comments.

6. Date evaluation completed and returned to Contract Admin./Initiating Dept. **9/28/2006**

**Reviewing**  
**Officer:**

*A. Munoz*

**Date:** 9/28/2006

**Approved**  
**By:**

*Robert Barner*

**Date:** 9/28/06

# LBE/SLBE Participation Bidder 1

Project Name: McKillop Roadside Stabilization

Project No.: W325		Engineers Est: 1,212,248.10				Under/Over Engineers Estimate: 813,600.90				For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total	S/LBE	Total	TOTAL	Ethn.	MBE	WBE
						LBE/SLBE	Trucking	Trucking	Dollars			
PRIME	Drill Tech Drilling and Choring	Antioch	UB						1,355,849.00	NL		
Concrete	Central Concrete Supply	Oakland	CB	50,000.00		50,000.00			50,000.00	C		
Concrete	Level Construction	Oakland	CB		120,000.00	120,000.00			120,000.00	C		
6,7,8,9,10,11,12,16,23,20	Mcguire Hester	Oakland							500,000.00	C		
<b>Project Totals</b>				50,000.00	120,000.00	170,000.00	0.00	0.00	2,025,849.00		\$0.00	
				2.47%	5.92%	8.39%	0%	100%				
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				<b>LBE 10%</b>	<b>SLBE 10%</b>	<b>TRUCKING 20%</b>	<b>LBE/SLBE 20%</b>			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed		
<b>Legend</b>				LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise								



**Contract Compliance and Employment Services Evaluation Form**

**Project No.:** W325

**Project Name:** McKillop Roadside Stabilization

**Contractor:** Condon-Johnson & Associates, Inc.

**Contractor's Bid Amount:** 1,551,033.00

**Engineer's Estimate:** 1,212,248.10

**Over/Under the Engineer's Estimate:** -338,784.90

**Bid Discounted Amount:** \$31,020.66

**Discount Points:** 2%

**Discounted Bid Price:** \$1,520,012.34

1. Did the 20% requirements apply? **YES**

2. Did the contractor meet the 20% requirement? **YES**

a) % of LBE **86.43%**  
b) % of SLBE **13.57%**

3. Did the contractor meet the Trucking requirement? **YES**

a) % of Local Trucking **100.00%**

4. Did the contractor received bid discount points?  
(If yes, list the points received) **YES**  
**2%**

5. Additional Comments.

6. Date evaluation completed and returned to Contact Admin./Initiating Dept. **9/28/2006**

**Reviewing Officer:** *D. Munoz*

**Date:** 9/28/2006

**Approved By:** *Dennis Barnes*

**Date:** 9/28/06

# LBE/SLBE Participation Bidder 2

Project Name: McKillop Roadside Stabilization

Project No.: W325		Engineers Est: 1,212,248.10				Under/Over Engineers Estimate: -338,784.90						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	S/LBE Trucking	Total Trucking	TOTAL Dollars	For Tracking Only		
										Ethn.	MBE	WBE
Prime	Condon-Johnson & Associates, Inc.	Oakland	CB	1,340,533.00		1,340,533.00			1,340,533.00	C		
Surface Improvements	AJW Construction	Oakland	CB		34,000.00	34,000.00			34,000.00	H	\$34,000.00	
Construction Supplies	Level Construction	Oakland	CB		40,000.00	40,000.00			40,000.00	C		
Chain Link	North American Fence	Oakland	CB		8,500.00	8,500.00			8,500.00	C		
Surveying	PLS Surveys	Oakland			3,000.00	3,000.00			3,000.00	C		
Trucking	S&S Trucking	Oakland	CB		15,000.00	15,000.00	15,000.00	15,000.00	15,000.00	H	\$15,000.00	
Furnish Pile	Gillmore Steel Inc.	Oakland	CB		110,000.00	110,000.00			110,000.00	AA	\$110,000.00	
<b>Project Totals</b>				1,340,533.00	210,500.00	1,551,033.00	15,000.00	15,000.00	1,551,033.00		\$159,000.00	\$0.00
				86.43%	13.57%	100.00%	100.00%	100.00%				
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				<b>LBE 10%</b>	<b>SLBE 10%</b>	<b>TRUCKING 20%</b>	<b>LBE/SLBE 20%</b>			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed		
<b>Legend</b>	LBE = Local Business Enterprise		UB = Uncertified Business		SLBE = Small Local Business Enterprise		CB = Certified Business		Total LBE/SLBE = All Certified Local and Small Local Businesses		MBE = Minority Business Enterprise	
	NPLBE = NonProfit Local Business Enterprise		WBE = Women Business Enterprise		NPSLBE = NonProfit Small Local Business Enterprise							

*John Patrick Tan*  
City Attorney

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

2007 MAR 15 PM 5:25

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION AMENDING RESOLUTION NO. 80186 C.M.S. ADOPTED ON OCTOBER 3, 2006, WHICH APPROPRIATED \$1,693,550.00 OF CITY FUNDS FOR EMERGENCY RESPONSE AND PERMANENT STORM MITIGATION MEASURES FOR THE MCKILLOP ROADWAY RESTORATION PROJECT, TO APPROPRIATE AN ADDITIONAL \$1,906,450.00 (FOR A TOTAL PROJECT APPROPRIATION OF \$3,600,000.00)**

**WHEREAS**, as a result of a 2006 land slide that continues to pose a threat of significant or catastrophic damage to McKillop roadway and nearby properties, the City Council has declared a Local Emergency pursuant to authority granted by Ordinance No. 11467 C.M.S., and

WHEREAS, on October 3, 2006, City Council adopted Resolution No. 80186 C.M.S. appropriating \$1,693,550.00 in City funds for the McKillop Roadway Construction Project and authorized the City Administrator to accept reimbursement of eligible costs from State and Federal agencies; and

**WHEREAS**, the permanent emergency restoration work for McKillop Roadway is in progress, to prevent the regression of the slide into the roadway, the underground utilities, and the homes on the upper section of the slope; and

**WHEREAS**, the design, construction, and inspection costs for the emergency repairs and permanent restoration work for McKillop Roadway Restoration was identified by FEMA to be under presidential proclamation (DR-1646), which have been estimated to cost \$3,600,000.00; and

**WHEREAS**, it is anticipated that Federal and State agencies will reimburse the City up to \$3,375,000.00 for the permanent restoration work; and

**WHEREAS**, all emergency and permanent restoration work costing an estimated \$3,600,000.00, is 93.75 percent reimbursable from State and Federal agencies, and these costs are above and beyond the City's adopted budget; and

**WHEREAS**, PWA needs advance City Council authorization for the City Administrator or her designees to accept funds from the State of California and Federal agencies for reimbursable costs; now, therefore, be it

**RESOLVED:** That the City Council hereby approves the appropriation of an additional \$1,906,450.00 for the McKillop Roadway project (FOR A TOTAL PROJECT APPROPRIATION OF \$3,600,000.00); and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator to accept additional funds from FEMA and the State of California Office of Emergency Services (OES) for the emergency permanent restoration of landslides that have been approved by FEMA; and be it

**FURTHER RESOLVED:** That the additional funding will be appropriated to:

- Fund 2062 (FEMA 1646 DR-Spring Storms 2006), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310710 in the amount of \$1,429,838.00.
- Fund 2146 (California State Emergency), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310720 in the amount of \$357,459.00.
- Fund 2211 (Measure B-ACTIA), Organization 92242 (Street and Structures), Account 54011 (Contract Contingency), and Project No. G310730 in the amount of \$119,153.00; and be it

**FURTHER RESOLVED:** That the revenues will be deposited into:

- Fund 2062 (FEMA 1646 DR-Spring Storms 2006), Organization 30242 (Street and Structures), Account 46128 (FEMA - 75 % Federal), and Project No. G310710 in the amount of \$1,429,838.00.
- Fund 2146 (California State Emergency), Organization 30242 (Street and Structures), Account 46229 (Miscellaneous State Grant), and Project No. G310720 in the amount of \$357,459.00.
- Fund 2211 (Measure B-ACTIA), appropriation within fund is non-reimbursable City's share of 6.25% which is \$119,153.00; and be it

**FURTHER RESOLVED:** That if State and Federal funds are not reimbursed at the level anticipated and a higher local share is required, staff shall return to Council for additional budget authority; and be it

**FURTHER RESOLVED:** That all agreements entered into pursuant to authorization hereunder shall be approved for form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2007

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California