

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 DEC -1 PM 1:00

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Public Works Agency
DATE: December 13, 2011

RE: Resolution Waiving Advertising and Competitive Bidding and Increasing The Change Order Limit For The Contract With McGuire & Hester For The 12th Street Reconstruction Project (Project No. C241610) From Ten Percent To Twenty Percent Of The Original Contract Amount For A Total Contract Amount Not-To-Exceed Thirty-Eight Million Four Hundred Forty-Three Thousand Seven Hundred One Dollars and Seventy-Seven Cents (\$38,443,701.77)

SUMMARY

A resolution has been prepared that authorizes the City Administrator or her designee to increase the change order limit for the contract with McGuire & Hester (M&H) for the 12th Street Reconstruction project (Project No. C241610). This resolution will increase the change order limit from ten percent to twenty percent of the original contract amount for a total contract amount not-to-exceed Thirty-Eight Million Four Hundred Forty-Three Thousand Seven Hundred One Dollars and Seventy-Seven Cents (\$38,443,701.77).

At the time of contract award, the existing change order limit was projected to be sufficient to complete the project and make changes due to work associated with unforeseen conditions in the field. However, many unforeseen and changed field conditions were encountered in construction, and additional change order capacity is needed to successfully complete the project. One significant change is the addition of a federal grant to construct facility enhancements including playground equipment, park furniture, and decorative lighting. These enhancements, which were not part of the initial scope of work, are funded by an \$827,900.00 Federal Transportation grant that was recently awarded to the City for this project. In addition, the proposed change order limit increase will also provide additional contract capacity that will be reserved to expeditiously resolve any additional unforeseen work that may be necessary to complete the project.

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FISCAL IMPACTS

The 12th Street Reconstruction project is a major component of the Lake Merritt Channel improvements funded through Measure DD, with additional significant funding from state and federal grants.

This year, staff successfully sought and obtained a Federal Transportation grant from the Housing and Urban Development and Related Agencies Appropriation Act of 2010. The City Council approved Resolution No. 83497 C.M.S. on July 19, 2011, authorizing the City Administrator to accept and appropriate up to \$827,900.00 of the Federal Transportation grant funds. This grant will provide construction funding for facility enhancements including playground equipment, park furniture, and decorative lighting.

Funding is available in the project budget to cover the original contract amount and the increased change order limit in the following accounts:

- \$827,900.00: Federal Transportation grant - Housing & Urban Development and Related Agencies Appropriation Act of 2010 (corresponding subprojects to be created)
- \$26,560,000.00: Measure DD - 2009 Series B Clean Water, Safe Parks & Open Space Trust Fund (5321); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393310
- \$13,376,883.00: Federal Highway Administration (FHWA) – Highway Bridge Program (HBP) funding; Department of Transportation Fund (2116); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393320
- \$8,000,000.00: State Coastal Conservancy (Proposition 50) Grant Fund (2159); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393330

Although the proposed amendment represents an increase of \$6,407,283.63 to the M&H contract budget, the total construction cost is currently anticipated to be approximately \$38 Million, which is much less than the original bid of \$49 Million. The original cost was reduced through value engineering. Furthermore, federal funds were brought to this project that reduced the reliance on local funding. In fact, 46% of the total funding is from outside grants.

BACKGROUND

The 12th Street Reconstruction project is a significant, signature element of the Lake Merritt Channel improvements funded through Measure DD. This project is now in construction and is sixty percent complete.

The City Council approved and authorized a construction contract with McGuire & Hester in March 2010 in the amount of Thirty Two Million Thirty-Six Thousand Four Hundred Eighteen Dollars and Fourteen Cents (\$32,036,418.14) in accordance with Resolution No. 82579 C.M.S. That contract included authority for up to ten percent in change orders to cover unforeseen conditions.

A summary of the additional work authorized to date and anticipated, foreseen, and unforeseen work follows:

1. **Change Order Work to Date (6.3%):** Additional necessary work totaling \$2,016,252.79 has been authorized to date and includes work associated with the now complete vehicular bridges, changes in pile driving equipment and pile system to reduce construction noise, and work associated with resolution of unforeseen conditions encountered during pile driving operation, including wooden piles at unmapped locations and depths.
2. **Potential Change Order Work Identified to Date (6.1%):** Additional and potential work identified to date, totaling \$2 Million is anticipated at this time. This amount will be used during the remaining construction phase to authorize changes for anticipated work, including additional foundation work for the lake shoreline sea wall and for unanticipated work as field conditions evolve during construction.
3. **Grant Enhancements (2.6%):** This increase will be used for the construction of additional facility enhancements. As noted above, the City recently received a Federal Transportation grant from the Housing and Urban Development and Related Agencies Appropriation Act of 2010 in the amount of \$827,900.00. These grant funds can only be used for facility enhancements such as decorative lighting, playground equipment, and park furniture for this project. This grant was received after the initial contract was awarded and represents work beyond the initial scope of work.
4. **Contingency (5.0%):** A five percent contingency of \$1.6 Million is recommended. Based on staff's experience with the first half of construction, it is likely that additional work may be needed to complete the project. This additional capacity will be reserved for other undetermined work and will allow staff to address potential construction issues in a timely manner and prevent costly delays.

KEY ISSUES AND IMPACTS

The Lake Merritt Master Plan identified this area as a major component in the implementation of the goals of Measure DD, the Oakland Trust for Clean Water and Safe Parks bond measure.

Approval of this increase will facilitate construction of the project enhancements required by the new federal grant. This resolution will allow staff to implement those facility enhancements.

Approval of this increase will allow staff to authorize work associated with unforeseen issues with the pile system. The remaining capacity will be reserved for other undetermined work that may be necessary to complete the project.

Since the project is federally funded, Department of Transportation program guidelines were used to administer this project. This project has a required Race Conscious Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.3%. McGuire & Hester proposed a 4.1% Race Conscious UDBE participation, which exceeds the UDBE goal. Compliance of the Race Conscious Underutilized Disadvantaged Business Enterprise is monitored regularly by the City's Social Equity Division of the Department of Contracting and Purchasing.

The project is also generating local jobs, business tax, sales tax, and other revenues for the City by those who work on the project. While no minimum levels were required on this project, McGuire & Hester's original bid proposed a 55.8% Local and Small Local Business Enterprise (LBE/SLBE) participation (see *Attachment A*).

As with the LBE/SLBE Program, the City's Local Hire Program did not apply. However, during the contract award process, McGuire & Hester presented a voluntary 30% local hire commitment. With the first half of construction completed, McGuire & Hester's local hire participation to date is 42.04% (see *Attachment B*), which exceeds the contractor's voluntary 30% local hire commitment.

PROJECT DESCRIPTION

The project is located at the south end of Lake Merritt between Oak Street and Lakeshore Avenue. Several structures are included within the project limits: the Western Grade Separation crossing 14th Street, and the Eastern Grade Separation crossing East 12th Street. This transportation network, referred to as the "12th Street Corridor", is the main link between Downtown and East Oakland around Lake Merritt. The Lake Merritt Channel connects the lake to the estuary and crosses the project area through a set of box culverts.

The project area is surrounded by a number of well known civic buildings such as the Henry J. Kaiser Convention Center, the Oakland Museum, and the Alameda County Court House. Adjacent to the project, other important facilities include: Peralta Park, Lake Merritt Channel Park, Laney College, Peralta Community College District offices, Oakland Unified School District offices, the Main Oakland Public Library, the historic Camron-Stanford House, and the Lake Merritt BART Station.

As described in the Lake Merritt Master Plan, the 12th Street Reconstruction project involves the reconfiguration of the main roadways. The existing twelve-lane expressway across the 12th Street dam will be changed into a six-lane, tree-lined boulevard with signalized intersections. The reduced roadway width will allow the construction of a large shoreline park with a public restroom, turf areas, a promenade, and a series of pedestrian and bicycle paths that provide safer access for pedestrians and cyclists along the perimeter of Lake Merritt.

The grade separation structures and the existing multi-box culverts are being replaced with clear-span vehicle and pedestrian bridges that meet current seismic design standards. This will improve tidal circulation into the Lake and enhance water quality and wildlife habitat. Access to the Kaiser Convention Center and Laney College will be improved with at-grade signalized crossings. Direct pedestrian, bicycle, and boat access from Lake Merritt along the Lake Merritt Channel Park will be established, permitting improved and easy access to the Bay Trail and waterfront. The project will also create stronger linkages between the Estuary, Lake Merritt, and the surrounding neighborhoods, thus transforming this underutilized space into a vibrant urban space.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed work will continue to generate additional jobs. For informational purposes, with sixty percent of construction completed, McGuire & Hester's local hire participation is 42.04% (see **Attachment B**), which exceeds the contractor's voluntary 30% local hire commitment.

In general, the 12th Street Reconstruction project will enhance the physical appearance of the Lake and provide connection with other Lake Merritt Channel projects, which will attract more visitors to the neighborhood and promote the potential for further economic development in the area.

Environmental: The proposed new playground equipment will be installed at a more accessible location, providing good visibility and becoming more inviting to all users. Also, the proposed removal of multi-box culverts along the widened Lake Merritt Channel will significantly improve the natural tidal circulation into Lake Merritt and enhance wildlife habitat and water quality. Low oxygen levels in Lake Merritt are a major water quality impairment that will be mitigated by this. In addition, the proposed

design includes a tree-lined boulevard designed to create the largest possible open space adjacent to the lake.

Social Equity: The proposed pathway enhancements will provide additional access to the eastern side of the Lake Merritt Channel, complementing a shoreline park that will be created to include new recreational elements. In addition, direct pedestrian, bicycle, and boat access connections from Lake Merritt along the Peralta and Lake Merritt Channel Parks will be provided by this and future projects, allowing improved and easy access to the Bay Trail and waterfront and increasing the social connection between these neighborhoods. The proposed pathway enhancements will provide additional access to the eastern side of the Lake Merritt Channel.

DISABILITY AND SENIOR CITIZEN ACCESS

Facility enhancement will improve pathway lighting and replace existing playground equipment with newer, user friendly playground structures. In general, the design for the 12th Street Reconstruction project will include improved access from the Kaiser Convention Center and Laney College to Lake Merritt. Also, the existing pedestrian tunnels will be replaced with at-grade signalized crosswalks. Pathways will be in compliance with the physical access requirements of the Americans with Disabilities Act (ADA), providing equal opportunity and access along Lake Merritt and to the Channel Park. Overall, the project will make this area much more accessible to seniors and disabled persons.

RECOMMENDATION AND RATIONALE

Section 2.04.050 I 5 of the Oakland Municipal Code (the "OMC") authorizes the City Council to waive the advertising and competitive bidding requirements of OMC Section 2.04.050 upon a finding and determination that it is in the best interests of the City to do so. It is in the best interests of the City to waive the advertising and competitive bidding requirements of OMC Section 2.04.050 because it will (1) allow staff to implement additional enhancements along with the original work as required by the federal grant, and (2) maintain continuity and minimize costly delays and disruption during the middle of project construction.


Staff recommends that the City Administrator be authorized to increase the change order limit for the contract with McGuire and Hester for the 12th Street Reconstruction project from ten percent to twenty percent of the original contract amount for a total contract amount not-to-exceed Thirty-Eight Million Four Hundred Forty-Three Thousand Seven Hundred One Dollars and Seventy-Seven Cents (\$38,443,701.77).

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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council waive the advertising and competitive bidding requirements of the OMC and approve the resolution increasing the change order limit for the contract with McGuire and Hester for the 12th Street Reconstruction project from ten percent to twenty percent of the original contract amount for a total contract amount not-to-exceed Thirty-Eight Million Four Hundred Forty-Three Thousand Seven Hundred One Dollars and Seventy-Seven Cents (\$38,443,701.77).

Respectfully submitted,



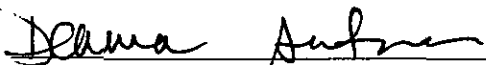
Vitaly B. Troyan, P.E., Director
Public Works Agency

Reviewed by:
Michael Neary, P.E., Assistant Director
PWA, Department of Engineering and Construction

Prepared by:
Gus Amirzehni, P.E., Principal Civil Engineer
Engineering Design & R.O.W. Management Division

Jaime Heredia, P.E., Supervising Civil Engineer
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator

Item: _____
Public Works Committee
December 13, 2011



DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT COMPLIANCE EVALUATION FOR:

Construction Services Under-Utilized Disadvantaged Business Enterprise (UDBE)

PROJECT NO.: C241610

PROJECT NAME: 12th Street Reconstruction Project

CONTRACTOR: McGuire & Hester

<u>Engineer's Estimate:</u>	<u>Contractors' Bid Amount</u>	<u>Over/Under Engineer's Estimate</u>
\$45,517,000.00	\$32,036,418.14	\$13,480,581.86

<u>Discounted Bid Amount:</u>	<u>Amt. of Bid Discount</u>	<u>Discount Points:</u>
N/A	N/A	N/A

- | | |
|---|-------------------|
| 1. Did the RC UDBE Program apply? | <u>YES</u> |
| a) Race Conscious? | <u>YES</u> |
| b) Race Neutral | <u>NA</u> |
| 2. Did the contractor meet the RC UDBE goal of 3.3% | <u>YES</u> |
| a) % of RC UDBE participation | <u>4.10%</u> |
| b) % of LBE participation | <u>50.89%</u> |
| c) % of SLBE participation | <u>4.88%</u> |
| 3. Was Good Faith Effort (GFE) Documentation submitted? | <u>YES</u> |
| 4. Did the contractor meet the Trucking requirement? | <u>NA</u> |
| a) Total trucking participation | <u>4.10%</u> |
| 5. Did the contractor receive bid discounts? | <u>N/A</u> |
| (if yes, list the percentage received) | <u>N/A</u> |
| 6. Additional Comments. | |
| 7. Date evaluation completed and returned to Contract | <u>12/18/2009</u> |

**Reviewing
Officer:**

[Signature]

Date: 12/18/2009

Approved By:

Shelley Daramsburg

Date: 12/18/2009

UDBE Participation Bidder 3

Project Name: 12th Street Reconstruction Project													
Project No.: C241b10		Engineer's Est. \$45,517,000.00						Under/Ovnr Engineer's Est. 13,4e0,581.88					
Discipline	Prma & Suba	Location	Cert. Status	LBE Dollars	SLBE Dollars	Total LBE/SLBE Dollars	DBE Dollars	RC UDBE Dollars	Total Dollars	Certified DBE/WBE			
										Ethn.	DBE	RC UDBE	WBE
PRIME	McGuire & Haster	Oakland	UB	15,860,833.14		15,860,833.14			15,860,633.14				
Sanblastino	Slump & Sons, Inc.	Oakland	UB		201,000.00	201,000.00			201,000.00	C			
AC Supply	Vulcan Materials	Livermore	UB						352,000.00	C			
Concreta	Cemax	Elkorado Hills	UB						790,000.00	C			
Trucking	CJC Trucking	Oakland	CB		180,000.00	180,000.00		180,000.00	180,000.00	AA		180,000.00	
Trucking	STI Trucking	Newark	CB					180,000.00	180,000.00	C			180,000.00
Trucking	Williams Trucking	Oakland	CB		954,000.00	954,000.00		954,000.00	954,000.00	AA		954,000.00	
Stig Domo	Dekay Demolition	Oakland	UB		226,950.00	226,950.00			226,950.00	C			
Rebar	Alamillo Rebar	Vallejo	UB						463,752.00	C			
Structural Demolition	Silverado Contractors	Oakland	UB	442,000.00		442,000.00			442,000.00	C			
Pedestrian Bridge	Excoj Bridge Mfg.	Santa Fe	UB						249,000.00	C			
Precast Concrete	Foundation Constructors, Inc.	Oakland	UB						4,915,483.00	C			
Fencing	Ahborn Fence	Santa Rosa	UB						376,000.00	C			
Concrete	Pacific International Group	Sedgheim	UB						2,933,000.00	C			
Painting	Redwood Painting Co.	Pittsburg	UB						253,000.00	C			
Electrical	Columbia Electric	San Leandro	UB						3,159,600.00				
Project Totals				\$15,302,833.14	\$1,561,950.00	\$17,864,583.14	\$0.00	\$1,314,000.00	532,036,418.14		\$0.00	\$1,134,000.00	\$180,000.00
				50.89%	4.08%	55.76%	0.00%	4.10%	100%		0.00%	3.54%	0.56%
Legend										Ethnicity AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed			
										UB = Uncertified Business CB = Certified Business DBE = Disadvantaged Business Enterprise WBE = Women Business Enterprise UDBE = Underutilized Disadvantaged Business Enterprise			

Attachment B

**OAKLAND Hours
One Contractor Across One Project**

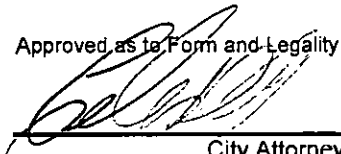
From 03/07/2010 to 10/23/2011

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Project / Contractor	Total Employee Hours	OAKLAND Hours	Apprentice Hours	JourneyMan Hours	OAKLAND Apprentice Hours	OAKLAND Apprentica/ JourneyMan Ratio
12th Street Reconstruction Project						
MCGUIRE & HESTER						
CARPENTER AND RELATED TRADES	10,746.00	2,533.00	2,448.00	8,288.00	1,065.00	0.30
CEMENT MASON	2,045.00	1,019.50	14.00	2,031.00	14.00	0.01
LABORER AND RELATED CLASSIFICATIONS	23,508.00	14,152.00	3,123.50	20,384.50	2,873.50	0.15
LANDSCAPE MAINTENANCE LABORER	96.00	0.00	0.00	96.00	0.00	0.00
OPERATING ENGINEER (HEAVY & HIGHWAY WORK)	13,247.00	2,972.50	1,117.50	12,129.50	1,117.50	0.09
TEAMSTER	821.75	533.75	214.50	607.25	214.50	0.35
SubTotal	50,483.75	21,215.75	6,917.50	43,546.25	5,254.50	0.90
Total	50,463.75	21,215.75	6,917.50	43,546.25	6,284.50	0.90
Percentage		42.04%			10.47%	

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


 City Attorney

2011 DEC -1 PM 1:00 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND INCREASING THE CHANGE ORDER LIMIT FOR THE CONTRACT WITH MCGUIRE & HESTER FOR THE 12TH STREET RECONSTRUCTION PROJECT (PROJECT NO. C241610) FROM TEN PERCENT TO TWENTY PERCENT OF THE ORIGINAL CONTRACT AMOUNT FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED THIRTY-EIGHT MILLION FOUR HUNDRED FORTY-THREE THOUSAND SEVEN HUNDRED ONE DOLLARS AND SEVENTY-SEVEN CENTS (\$38,443,701.77)

WHEREAS, 12th Street Reconstruction is a component of the Lake Merritt Master Plan; and

WHEREAS, a contract for construction was awarded to McGuire & Hester in March 2010 in the amount of Thirty Two Million Thirty-Six Thousand Four Hundred Eighteen Dollars and Fourteen Cents (\$32,036,418.14) and executed in accordance with Resolution No. 82579 C.M.S.; and

WHEREAS, construction is currently underway by McGuire and Hester; and

WHEREAS, this year the City of Oakland received a Federal Transportation grant (from the Housing and Urban Development and Related Agencies Appropriation Act of 2010) in the amount of \$827,900 for project enhancements requiring additional construction; and

WHEREAS, due to many unforeseen and changed field conditions, additional change order capacity is needed to successfully complete the project; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, and the performance of this contract is in the public interest because of economy or better performance; and

WHEREAS, sufficient funding is available in the project budget to cover the original contract amount and to increase the change order limit in the following accounts:

- \$827,900.00: Federal Transportation grant - Housing & Urban Development and Related Agencies Appropriation Act of 2010 (corresponding subprojects to be created); and
- \$26,560,000.00: Measure DD - 2009 Series B Clean Water, Safe Parks & Open Space Trust Fund (5321); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393310

- \$13,376,883.00: Federal Highway Administration (FHWA) – Highway Bridge Program (HBP) funding; Department of Transportation Fund (2116); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393320
- \$8,000,000.00: State Coastal Conservancy (Proposition 50) Grant Fund (2159); Engineering Design: Street and Structures Organization (92242); Street Construction Account (57411); Project C393330

WHEREAS, the City Council finds and determines that the performance of this additional work shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

WHEREAS, Section 2.04.050 I. 5 of the Oakland Municipal Code (the “OMC”) authorizes the City Council to waive the advertising and competitive bidding requirements of Section 2.04.050 upon a finding and determination that it is in the best interests of the City to do so; now, therefore, be it

RESOLVED: That the City Council hereby finds and determines that pursuant to OMC Section 2.04.051 1.5, that it is in the best interests of the City to waive the advertising and competitive bidding requirements of the OMC and increase the change order limit for the contract with McGuire and Hester for the 12th Street Reconstruction project (Project No. C241610) from ten percent to twenty percent of the original contract amount, because it is vital to the project to do so in order to: (1) allow staff to implement additional enhancements along with the original work as required by the federal grant, and (2) maintain continuity and minimize costly delays and disruption during the middle of ongoing project construction and completion; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator, or her designee, to increase the change order limit for the contract with McGuire & Hester for the 12th Street Reconstruction project (Project No. C241610) from ten percent to twenty percent of the original contract amount for a total contract amount not-to-exceed Thirty-Eight Million Four Hundred Forty-Three Thousand Seven Hundred One Dollars and Seventy-Seven Cents (\$38,443,701.77)

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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