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OAKLAND

2016 MAR 30 AM 11:00

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Brooke A. Levin  
Director, Public Works

**SUBJECT:** On-call Construction Contract  
Amendment for McGuire & Hester Inc.

**DATE:** March 1, 2016

City Administrator Approval

Date:

3/29/16

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Waiving Advertising And Competitive Bidding And Authorizing The City Administrator To Amend An On-Call Construction Contract With McGuire And Hester, Inc. Increasing The Contract Amount From Six Hundred Thousand Dollars (\$600,000.00) To Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00).**

## EXECUTIVE SUMMARY

Approval of this resolution will waive advertising and competitive bidding and authorize the City Administrator to execute an amendment increasing the existing on-call construction contract with McGuire and Hester, Inc. from \$600,000.00 to a contract maximum of \$775,000.00. The contract amendment will allow the City to complete on-going projects and other potential projects on an as-needed basis.

The City Council executed an on-call construction contractor with McGuire and Hester, Inc., in an amount not to exceed five hundred thousand dollars (\$500,000.00) under Resolution No. 84487 C.M.S., dated July 2, 2013. On March 5, 2016, within the City Administrator's authority the City amended a \$100,000.00 (20%) Change Order to the on-call Contract with McGuire and Hester in accordance with contract Special Provision specification Section 3-2-1.

## BACKGROUND / LEGISLATIVE HISTORY

On July 2, 2013, City Council approved Resolution No. 84487 C.M.S. awarding an on-call construction contract to McGuire & Hester, Inc. for an amount not-to-exceed \$500,000.00. On-call construction services are needed to facilitate the delivery of small and/or unexpected projects promptly and efficiently to support the City's Capital Improvement Program and to respond to emergencies. Projects may involve streets and sidewalks; curb ramps; bike facilities; traffic signals; intelligent transportation systems; streetscape elements; pavement markings; signage; minor paving; underground utilities; creeks and waterways; watershed

preservation, stormwater quality elements; bridges; parks; athletic fields; recreation centers; public safety buildings; libraries; administration buildings; and others.

On March 5, 2016, within the City Administrator's authority the City amended an additional \$100,000.00 (20%) Change Order limit to the on-call Contract with McGuire and Hester Inc. for a total amount not-to-exceed six hundred thousand dollars (\$600,000.00) as allowed per contract specifications.

On February 6, 2014, under Resolution No. 84831 C.M.S, City Council authorized the acceptance and appropriation of grant funds from the California Department of Housing and Community Development, Housing Related Parks Program (HRPP) in the amount of \$928,530.00 for the Begin Plaza Renovation Project (No. C464580). The grant agreement was executed in December 2014. The HRPP grant ends on June 30, 2016, requiring the City to complete the project by the grant end date, which is approximately 18 months. Due to the constrained timeline and the extensive community outreach process required in the first phase of design, the construction documents were not completed until October 2015. It was determined to utilize an on-call contract to expedite construction and meet grant timeline.

The Begin Plaza Renovation Project is part of City of Oakland's effort to increase public safety, and improve open-space, recreational use. It is located at 2070 San Pablo Avenue (between Martin Luther King Jr. Way and 21st Street). The goals are to improve an existing, deteriorated park to better serve the community and support the recent increased housing developments in the neighborhood. The resulting plaza is intended to become a versatile, safe space for families and children's use and enjoyment.

The project scope consists in general of demolishing existing high retaining walls and tree berms, grade and finish existing site for new improvements, add new concrete pathways and paving, add site lighting, children's play area with fencing and safety surfaces, provide open space play area, seating and table, and install an irrigation system with Bay-Friendly landscaping and a stormwater retention/bio-swale system.

The initial construction cost estimate was \$450,000.00 for the project. Notice for Bids were issued in December 2015 to the on-call construction contractors, however, no bids were received. Staff subsequently contacted three contractors regarding their interest on the project and one response was received on February 5, 2016 from McGuire and Hester Inc. The initial discussion with McGuire and Hester Inc. produced a figure that was far above the City's budget. Staff worked with the contractor to apply value-engineering ideas and negotiate the project scope for a construction cost of \$653,272.00. The scope has been separated to two phases with the initial phase at \$489,189.05. The remaining second phase will be approximately \$164,083.00.

Phase One of the work will complete the base site demolition and grading, finished pathways, tot lot equipment, and site lighting. The remaining scope of work – irrigation system, landscaping, installing miscellaneous site furnishings, and play area safety surfaces, will be issued if Council approves the amendment. In order to complete the entire project scope for \$653,272.00, the on-call contract with McGuire and Hester, Inc. needs to be increased.

The project site is located in Council District 3 as shown in **Attachment A – Site Location Map**.

### ***Other Projects***

In addition, an allowance of \$50,000 is included in the contract limit extension. Public Works Department is in the process of issuing a new Request for Qualification for new on-call construction contracts. However, the completion of the contracts will be later this year. The allowance will provide the City with flexibility to incorporate potential new minor projects as needed.

## **ANALYSIS AND POLICY ALTERNATIVES**

### **Increase to On-call Contract limit for McGuire & Hester, Inc.**

Staff worked with the contractor applying value-engineering ideas and negotiated to deliver a reasonable project scope meeting community needs at the cost of \$653,272.00. Because the construction is entirely grant funded with set deadlines, the project needs to be completed by June 2016. To ensure that the City adheres to grant-fund timeline and avoid the risk of jeopardizing the grant funds due to firm grant deadlines, staff requests Council approve this resolution.

Alternatively, if the contract amendment increase is not approved, staff will need to prepare another bid package and obtain a separate contractor to perform Phase Two scope of work. The time required to complete another bid process will result in delay in completing the construction to meet the grant fund end date and risk loss of fund reimbursement.

McGuire and Hester, Inc. will be required to meet all City's Compliance Programs such as Local Business Enterprises and Small Local Business Enterprises requirement as specified per contract terms. McGuire and Hester, Inc. is a local firm.

### **Waiver of Advertising and Competitive Bidding Requirements**

Oakland Municipal Code ("OMC") Section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction that exceeds \$50,000, and the award of the contract to the lowest responsible, responsive bidder if award is made. OMC Section 2.04.050 I.5 provides an exception to the advertising and competitive bidding requirement of the OMC upon a finding and determination by the City Council that it is in the best interests of the City to do so. Staff recommends that it is in the City's best interests to waive advertising and competitive bidding and approve the proposed change orders and increase the contract maximum amount because Phase One construction is currently underway by McGuire and Hester, Inc. and it is vital to implement the remaining Phase Two work in order to maintain continuity, minimize costly delays and meet grant fund timeline for project completion.

**FISCAL IMPACT**

Based on above description of the required additional work, approval of the proposed resolution will authorize the City Administrator to execute an amendment to the existing on-call construction contract with McGuire and Hester, Inc. from \$600,000.00 to a total contract amount not-to-exceed \$775,000.00.

A summary of the existing on-call construction task orders and contract amendment requests are as follow:

<b><u>Task Order #</u></b>	<b><u>Description</u></b>	<b><u>Amount Executed</u></b>
#1	3023	\$9,250.00
#2	Begin Plaza Renovation, Phase 1	\$489,189.05
<b>Task Order Amount Executed Subtotal (A)</b>		<b>\$498,439.05</b>
	Begin Plaza Renovation Phase 2	\$164,073.94
	Contract Contingency for Begin Plaza project	\$62,487.01
	Contract allowance for future projects	50,000.00
<b>Subtotal Change Order and Contingency (B)</b>		<b>\$276,560.95</b>
<b>Revised Contract Amount Maximum Needed (A+B)</b>		<b>\$775,000.00</b>
<b>Current On-call Contract Amount</b>		<b>\$600,000.00</b>
<b>Contract Increase/Change Order Authorization Requested</b>		<b>\$175,000.00</b>

Funds Available for the Begin Plaza Renovation Project change order and contingency is available in the following:

<b>FUND</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>AMOUNT</b>
2144 – California Housing and Community Develop	92270 –Project Management Capital Improvement	57112 – Landscaping, Grounds Improvement	C464580 – Begin Plaza Renovation	IN06	\$276,560.95

An additional \$50,000 contract capacity is included for potential future projects. At the time a project is identified, funds will be available prior to issuing a task order against the on-call contract.

### **PUBLIC OUTREACH / INTEREST**

The City has worked closely with local stakeholders on the Begin Plaza design. Outreach activities included:

- 3 Community meetings with local residents and adjacent property owner
- 12 Meetings with stakeholders

### **COORDINATION**

The design and construction work for the Begin Plaza was reviewed and coordinated with:

- Oakland Public Works – Bureau of Infrastructure and Operations (Electrical Services)
- Oakland Public Works – BEC ADA Program
- Oakland Public Works – Bureau of Facilities & Environment (Facilities Services)
- Oakland Public Works – Bureau of Facilities & Environment (Parks & Tree Services)
- Oakland Planning & Building Department
- Oakland Economic and Workforce Development
- Oakland Parks and Recreation

In addition, the following Offices reviewed this report and resolutions:

- Office of the City Attorney
- Controller's Bureau

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The contractors are all verified for Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation by the Social Equity Division of the Department of Contracting and Purchasing. The contractors are required to have 50% of the work hours performed by Oakland residents and 15% are to be Oakland apprentices, which will result in dollars being spent locally.

**Environmental:** The project includes a Bay-Friendly landscaping and stormwater retention/bio-swale system and pollution prevention plan. The project ensures that the Best Management Practices for the protection of the City's creeks and waterway systems are protected during construction.

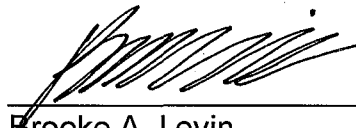
**Social Equity:** This project is improving public plaza and parks' safety, meeting ADA accessibility requirements for the users, thereby benefiting all Oakland residents.

**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 To Amend An On-Call Construction Contract With McGuire And Hester, Inc. Increasing The Contract Amount From Six Hundred Thousand Dollars (\$600,000.00) To Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00).

For questions regarding this report, please contact Danny Lau, Project Delivery Division Manager at (510) 238-7211.

Respectfully submitted,



Brooke A. Levin  
Director, Oakland Public Works Department

Reviewed by:  
Michael J. Neary, P.E., Assistant Director  
Bureau of Engineering and Construction

Reviewed by:  
Danny Lau, Manager  
Project Delivery Division

Prepared by:  
Ha Nguyen, CIP Coordinator  
Project Delivery Division

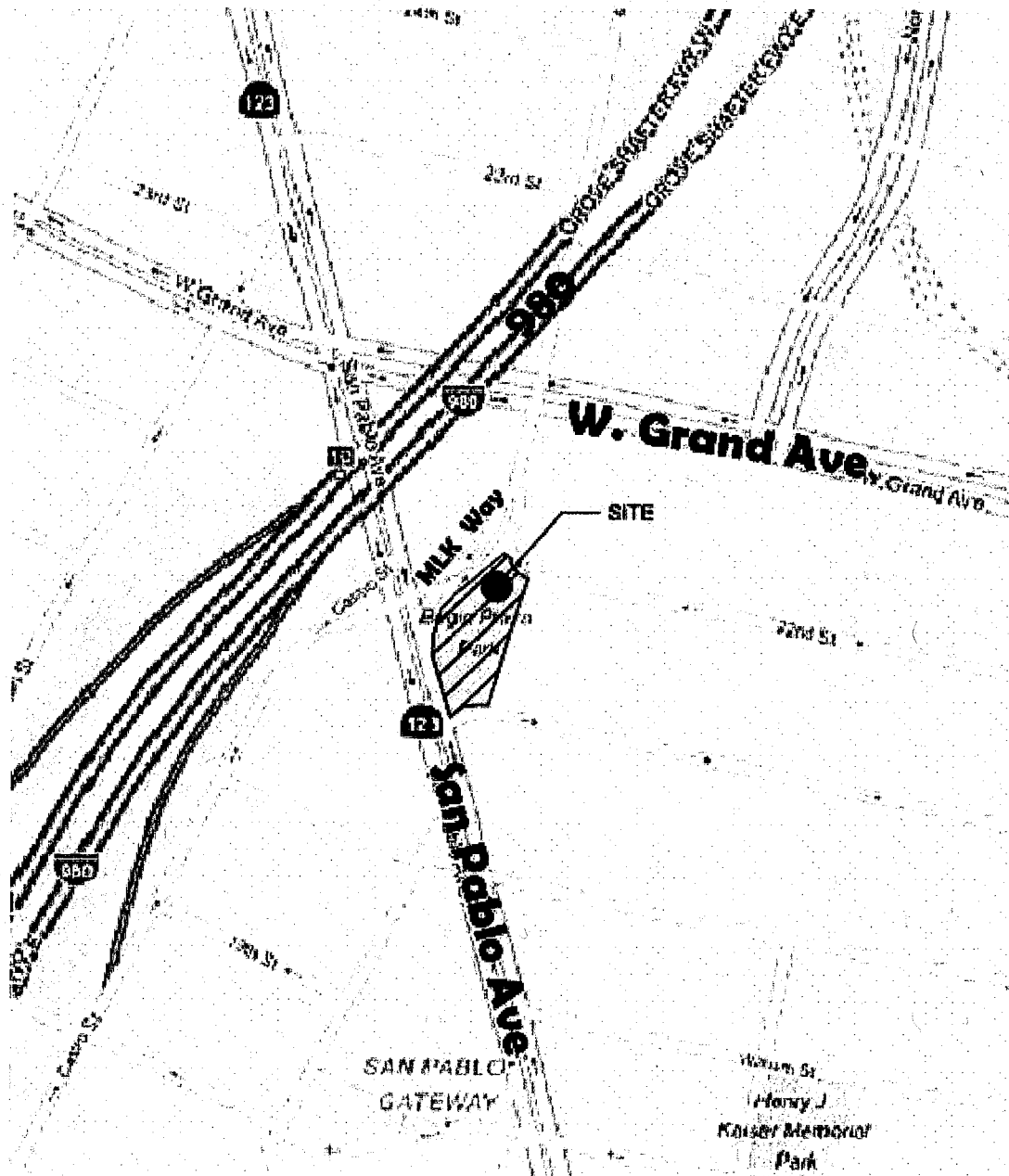
*Attachment (1):*

*A: Site Location Map*

# Attachment A

## Begin Plaza Renovation

### Project No. C464580







# OAKLAND CITY COUNCIL

Approved as to Form and Legality

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

  
City Attorney

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

**RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR TO AMEND AN ON-CALL CONSTRUCTION CONTRACT WITH MCGUIRE AND HESTER, INC. INCREASING THE CONTRACT AMOUNT FROM SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) TO SEVEN HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$775,000.00)**

**WHEREAS**, on July 2, 2013, the City Council approved Resolution No. 84487 C.M.S. and authorized an on-call construction contract with McGuire and Hester, Inc. in the amount of \$500,000.00; and

**WHEREAS**, on March 5, 2016 the City amended a \$100,000.00 (20%) Change Order to the on-call Contract with McGuire and Hester, Inc. per general specification-Section 3-2-1; and

**WHEREAS**, on February 6, 2014, the City Council approved Resolution No. 84831 C.M.S. and authorized the acceptance and appropriation grant funds from the California Department of Housing and community Development, Housing Related Parks Program (HRPP) in the amount of \$928,530 for the Begin Plaza Renovation Project (No. C464580); and

**WHEREAS**, the City of Oakland received executed agreement for the Housing-Related Parks Program (HRPP) Grant of \$928,530 in December 2014, requiring the City to complete the project by June 2016 grant end date, which is approximately 18 months; and

**WHEREAS**, the design phase was not completed until October 2015, due to the extensive community outreach process required during the design phase; and

**WHEREAS**, it was determined to utilize an on-call contract to expedite construction phase to meet grant timeline of June 30, 2016; and

**WHEREAS**, it is vital to implement the increase for the on-call contract amount in order to maintain the continuity of the Project construction and to meet the grant deadline; and

**WHEREAS**, Oakland Municipal Code ("OMC") section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsible, responsive bidder if award is made; and

**WHEREAS**, OMC Title 2, Chapter 2.0, Article I, Section 2.04.050.I 5 provides an exception to this advertising and competitive bidding requirement when specifically authorized by the City Council after a finding and determination that it is in the best interests of the City; 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, efficiency and better performance; and

**WHEREAS**, sufficient funding is available in the project budget to cover the increase change order limit for the Begin Plaza project in the following source:

Fund 2144 – California Housing and Community Develop, Organization No. 92270 – Project Management Capital Improvement and Funding, Account 57112 – Landscaping, Grounds Improvement, Project No. C464580 – Begin Plaza Renovation Project; and

**WHEREAS**, the City Council has determined that this contract is temporary in nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**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; now, therefore, be it

**RESOLVED:** That the City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding in accord with OMC section 2.04.050.I 5 because of the reasons set forth above and in the staff Report that accompanies this Resolution; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator, or designee, to increase the change order limit for the on-call construction contract with McGuire and Hester, Inc. from Six Hundred Thousand Dollars (\$600,000.00) to a total contract amount not-to-exceed Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00); and be it

**FURTHER RESOLVED:** That the contract and amendments shall be reviewed and approved by the City Attorney for form and legality 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, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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