



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# AGENDA REPORT

2017 NOV 21 PM 5:13

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

**FROM:** Ryan Russo  
Director, DOT

**SUBJECT:** Replacement of Embarcadero Bridge

**DATE:** November 13, 2017

City Administrator Approval

Date:

11/21/17

## RECOMMENDATION

Staff Recommends That The City Council Adopt:

- 1) Resolution Waiving Advertising And Competitive Bidding And Increasing The Change Order Limit For The Contract With Flatiron West, Inc. For The Replacement Of Embarcadero Bridge Over Lake Merritt Channel (Project No. G121810) From Twenty-Five Percent (25%) To Eighty Percent (80%) Of The Original Contract Amount For A Total Contract Amount Not-To-Exceed Twenty-Nine Million Five Hundred Nineteen Thousand One Hundred Fifty Dollars (\$29,519,150.00).
- 2) Resolution Waiving The RFP/RFQ Competitive Selection Process Requirements And Authorizing An Amendment To The Professional Services Contract With T.Y. Lin International/AECOM Joint Venture For The Replacement Of Embarcadero Bridge Over Lake Merritt Channel (Project No. G121810) Increasing The Scope Of Work And The Contract Amount By One Hundred Fifty Thousand Dollars (\$150,000.00) For A Total Contract Amount Not-To-Exceed Two Million Six Hundred Thirty Thousand Two Hundred Forty-Four Dollars (\$2,630,244.00).
- 3) Resolution Waiving The RFP/RFQ Competitive Selection Process Requirements And Authorizing An Amendment To The Professional Services Contract With Biggs Cardosa Associates, Inc. To Provide Special Inspection And Material Testing Services For The Replacement Of Embarcadero Bridge Over Lake Merritt Channel (Project No. G121810) Increasing The Scope Of Work And The Contract Amount By Seventy-Five Thousand Dollars (\$75,000.00) For A Total Contract Amount Not-To-Exceed Five Hundred Seventy-Five Thousand Dollars (\$575,000.00).

## EXECUTIVE SUMMARY

Adoption of the resolution will allow the Embarcadero Bridge Replacement Project to utilize additional funding from Caltrans as it is authorized on a request by request basis. The additional funding is needed as a result of various unanticipated costs incurred by the project. Without the additional funding the contractor will not be able to complete the construction of the bridge.

The Embarcadero Bridge over Lake Merritt Channel, located between Oak Street and 5th Avenue, was selected by the California Department of Transportation (Caltrans) as part of the Seismic Safety Retrofit Program. The project will replace the Embarcadero Bridge with a wider

Item: \_\_\_\_\_  
Public Works Committee  
December 5, 2017

and higher clearance bridge. Widening the bridge will provide continuity of sidewalk and bike lane facilities along the waterfront, while raising the bridge will eventually allow for small boat access to Lake Merritt from the Estuary.

The construction contract was awarded by the City Council on January 20, 2015 with a notice to proceed date issued on May 26, 2015. The actual construction was delayed approximately 15 months and started on August 15, 2016 due to unforeseen environmental impacts related to marine access and contaminated materials encountered on site. Expenditures on the construction of the new bridge is currently at approximately 65% of the base contract, while construction is at approximately 40% completion and is anticipated to be completed by December 2018 provided Caltrans approves additional funds. Due to the construction delay and additional scope caused by the unforeseen conditions, additional costs have been incurred by the contractor and consultants who provide construction support to the project.

Overall, staff is requesting \$9,285,000.00 in additional contract authority distributed between the construction contract and consultant construction support contracts. Staff met with Caltrans in February to discuss the project needs and submitted a request for funding increase. Additional funds are anticipated to be approved by March 2018. Change orders to the contract will not be executed until funding from Caltrans is in place.

This project is in Council Districts 2 and 3 as shown in **Attachment A**.

## **BACKGROUND / LEGISLATIVE HISTORY**

The project will replace the Embarcadero Bridge to comply with current seismic requirements. Work includes the demolition of the existing bridge and construction of a new bridge at the same location, but with a wider cross-section, and higher clearance above the Lake Merritt channel. The addition of bike lanes and sidewalk will conform to the Oakland Estuary Master Plan, which identifies Embarcadero as a link in the San Francisco Bay Trail, a recreational trail that circles the San Francisco Bay. The sidewalk will improve pedestrian accessibility along the entire length of the project and will be compliant with the Americans with Disabilities Act (ADA). The base project is funded by Federal and State grants, with a 3% local match.

On January 20, 2015, the City Council approved:

- The acceptance and appropriation of up to \$19,883,467.00 of Federal Highway Administration and State Proposition 1B Funds for the project in accordance with Resolution No. 85360 C.M.S. The resolution also authorized the acceptance and appropriation of any additional grant funds received for the construction phase.
- A construction contract with Flatiron West, Inc. in the amount of \$16,399,527.10 in accordance with Resolution No. 85361 C.M.S. That contract included authority for up to twenty-five percent (25%) in change orders to cover unforeseen conditions.
- An amendment to the professional services contract with T.Y. Lin International/AECOM, Joint Venture extending the contract and increasing the scope of services and contract by an amount not to exceed \$500,000.00 to provide design services during construction

and construction support for a total contract amount not-to-exceed \$2,480,244.00 in accordance with Resolution No. 85362 C.M.S.

- A professional services contract with Biggs Cardosa Associates, Inc. to provide special inspection and material testing services in an amount not-to-exceed \$500,000.00 in accordance with Resolution No. 85363 C.M.S.

### **ANALYSIS AND POLICY ALTERNATIVES**

The requested increase to the change order limit will allow completion of the project, and help to prevent a costly stop work order to the contractor, provided Caltrans approves funding in time. Furthermore, the bridge provides a critical connection between Jack London Square, the Embarcadero Cove, including the Brooklyn Basin development, and Jingtletown neighborhoods. Due to the demolition of the original bridge and construction of the new one, traffic is being routed through Madison, Oak, 7<sup>th</sup>, and E.8<sup>th</sup> Streets. Delays to the bridge work will prolong the congestion associated with the traffic detours. Currently, the construction is at approximately 40% completion and is anticipated to be completed by December 2018 provided Caltrans authorizes additional funding. The new Embarcadero Bridge is anticipated to be open by April 2019 ahead of the adjacent Brooklyn Basin Development project provided that the construction of the bridge is not delayed.

After the contract was awarded, several unforeseen conditions were encountered which resulted in a 15-month delay to the start of construction. These conditions included:

- A delayed project start-up due to a contractor dispute over interpretation of permit requirements on marine access from the estuary to Lake Merritt.
- Encountering contaminated water and soil at the job site.

Staff has been working diligently with Caltrans since February 2017 on funding these increased project costs and has received positive response on the funding request. It's anticipated to receive Caltrans approval on the additional funds by March 2018. The additional contract capacity for the construction contract and both consultant contracts will allow staff to authorize this work as Caltrans authorizes the additional funding.

Currently available funding is only sufficient to support project construction through the end of January 2018. Caltrans is currently planning to authorize funding by the end of March. This gap between when current funding will be exhausted and the authorization of additional funding by Caltrans will incur significant delay costs. First, an initial \$1.5 million will be needed to secure and prepare the site for closure, thereafter a cost of \$500,000.00 per month will be incurred. Overall this would be an additional \$2.5 Million in project costs. City staff continue to work with Caltrans to obtain earlier approval of the funding requests and prevent the project from being placed on hold.

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 allow staff to complete the project as required by the federal grant, and avoid further costly delays and disruption during the middle of the ongoing project construction.

**FISCAL IMPACT**

Staff has received a positive response from Caltrans for the additional funding requests. The additional project funding, which is anticipated to be approved by Caltrans by March 2018, will be \$8,220,011.00 (88.53%) grant funded with \$1,064,989.00 (11.47%) local match funded.

Comparatively, the original grant funding for the project pays 97% of project costs and the City pays 3% as a local match. The distribution of grant and local funds for the proposed contract capacity increases and the base contracts are shown in the tables below.

**Proposed Additional Contract Capacity**

Cost Element	Amount	Grant Funds	Local Funds
Additional construction contract change orders (40% change order capacity increase)	\$6,560,000.00	\$5,807,568.00	\$752,432.00
Additional Cost caused by placing project construction on hold until Caltrans approval of additional funding (15% change order capacity increase)	\$2,500,000.00	\$2,213,250.00	\$286,750.00
Amendment of Consultant contract for design support during construction - T.Y. Lin/AECOM	\$150,000.00	\$132,795.00	\$17,205.00
Amendment of special inspection & material testing contract - BCA	\$75,000.00	\$66,400.00	\$8,602.00
<b>Total Cost</b>	<b>\$9,285,000.00</b>	<b>\$8,220,011.00</b>	<b>\$1,064,989.00</b>

**Base Project Work**

Cost Element	Resolution No.	Amount	Grant Funds	Local Funds
Construction contract bid price	85361 C.M.S.	\$16,399,527.10	\$15,907,541.29	\$491,985.81
Construction contract contingencies (25% change order capacity)	85361 C.M.S.	\$4,099,881.90	\$3,768,529.18	\$331,352.72
Consultant contract for design support during construction – T.Y. Lin/AECOM	85362 C.M.S.	\$2,480,244.00	\$2,405,836.53	\$74,407.47

Consultant contract for special inspection & material testing - BCA	85363 C.M.S.	\$500,000.00	\$485,000.00	\$15,000.00
<b>Total Cost</b>		<b>\$23,479,653.00</b>	<b>\$22,566,907.00</b>	<b>\$912,746.00</b>

Grant funding for the additional work under the construction contract and the two consultant contracts will be available, pending Caltrans approval to increase the grant, in the following project accounts:

- Department of Transportation Fund (2116); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001298; Award 21541; \$8,020,818.00
- Department of Transportation Fund (2116); Engineering Design: Streets & Structures Organization (92242); Architectural and Engineering Services Account (54411); Project 1001298; Award 21541; \$199,193.00

Local matching funds are available from these funding sources:

- Measure B Fund (2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001512; Award 21542; \$500,000.00
- Measure B Fund (2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001512; Award 21542; \$365,000.00
- Measure BB Fund (2216); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1000819; Award 21542; \$174,182.00
- Measure BB Fund (2216); Engineering Design: Streets & Structures Organization (92242); Architectural and Engineering Services Account (54411); Project 1000819; Award 21542; \$25,807.00

### **PUBLIC OUTREACH / INTEREST**

This project has had extensive public review from the following agencies, businesses, and homeowner associations:

- San Francisco Bay Conservation and Development Commission (BCDC)
- U.S. Army Corps of Engineers
- California Department Fish and Wildlife Services
- Regional Water Quality Control Board
- U.S. Coast Guard
- Port of Oakland

- Brooklyn Basin Development Management
- Eastlake Merchants Association
- Jack London Improvement District
- Jack London District Association
- Allegro Condo Association
- Portobello Homeowner's Association

OPW has sent notification letters during construction with information about construction activities, schedule, and staff contacts to area residents and businesses.

### **COORDINATION**

Extensive coordination work was conducted with the Oakland Police Department, the Fire Department, and OPW Construction Management in the deployment and support of the traffic detour plan. Oakland Public Works (OPW) Bureau of Infrastructure and Operations reviewed the project during the design and planning phases. The Contracts and Compliance Division of the City Administrator's Office processed and enforced the project contracts. Furthermore, the Office of the City Attorney, and the Budget Bureau were consulted in preparation of this report.

### **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

The Contractor Performance Evaluation for Flatiron West, Inc. from a previously completed project is satisfactory and is included as **Attachment B**. The Performance Evaluations (Schedule L-2) for T.Y. Lin International/AECOM, and Biggs Cardosa are not available for past projects. The City currently has active contracts with these firms and they are all performing in a satisfactory manner on those projects.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This project will provide a structure designed to current seismic code requirements to improve the probability of rapid recovery during a catastrophic event. The replacement of the bridge will also displace the long-term maintenance cost the original bridge would have incurred. The project will increase the overall appeal of the neighborhood with its aesthetic elements, making it an economic asset.

**Environmental:** The project complies with specific environmental requirements to protect the Lake Merritt Channel, the Estuary and adjacent habitats. The project will provide a safer route for pedestrians and bicyclists along the waterfront and thereby reduce reliance on single-occupancy vehicles. The project includes stormwater management features such as rain gardens and inlet trash screens that filter pollutants from runoff. This improves water quality, and reduces the peak flow entering into the City's stormwater system and waterways. The project is also implementing Best Management Practices during construction for the protection of storm water runoff.

**Social Equity:** The new Embarcadero Bridge Project will enhance multi modal access and safety in the local street network, especially for pedestrians and bicyclists. Included in the project are pedestrian and mass transit features, ADA accessible design, and bicycle infrastructure.

**ACTION REQUESTED OF THE CITY COUNCIL**

**Staff Recommends That The City Council Adopt:**

- 1) **Resolution Waiving Advertising And Competitive Bidding And Increasing The Change Order Limit For The Contract With Flatiron West, Inc. For The Replacement Of Embarcadero Bridge Over Lake Merritt Channel (Project No. G121810) From Twenty-Five Percent (25%) To Eighty Percent (80%) Of The Original Contract Amount For A Total Contract Amount Not-To-Exceed Twenty-Nine Million Five Hundred Nineteen Thousand One Hundred Fifty Dollars (\$29,519,150.00).**
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For questions regarding this report, please contact Mohamed Alaoui, Principal Civil Engineer, Great Streets Delivery Division at (510) 238-3469.

Respectfully submitted,



Ryan Russo, Director  
Department of Transportation

Reviewed by:  
Wladimir Wlassowsky, P.E.,  
Interim Assistant Director, Great Streets

Prepared by:  
Mohamed Alaoui, P.E.,  
Principal Civil Engineer, Great Streets Delivery

*Attachments (2):*

*A: Project Location Map*

*B: Contractor/Consultant Performance Evaluation*

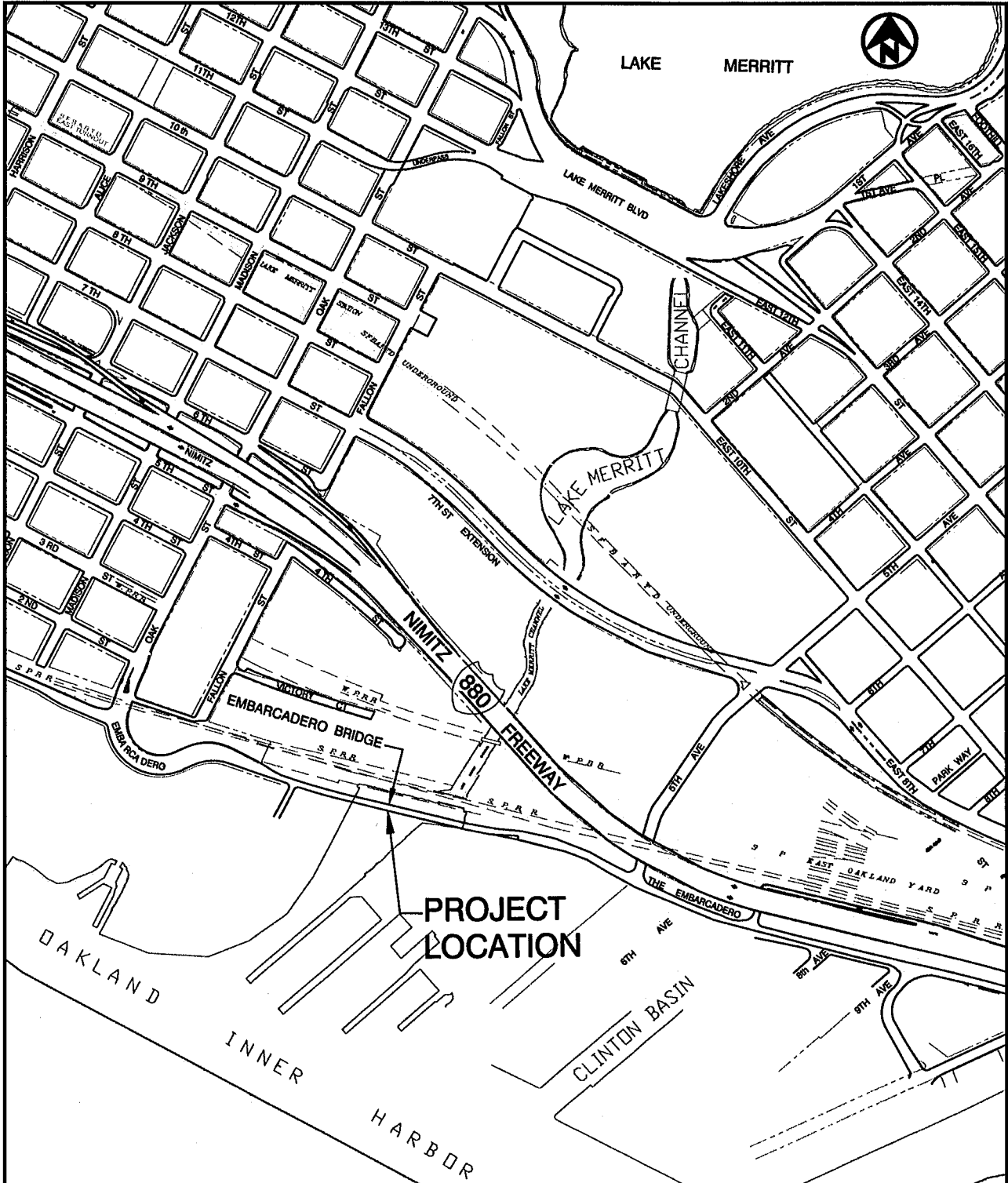


# Attachment A

## The Replacement of Embarcadero Bridge over Lake Merritt Channel (Project No. G121810)

### Location Map

Not to Scale



# **Attachment B**

The Replacement of Embarcadero Bridge over Lake Merritt Channel  
(Project No. G121810)

## **Contractor/Consultant Evaluation**

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

Project Number/Title: C347110

Work Order Number (if applicable): \_\_\_\_\_

Contractor: Flatiron West INC

Date of Notice to Proceed: January 15, 2013

Date of Notice of Completion: N/A

Date of Notice of Final Completion: November 26, 2013

Contract Amount: \$5,023,275.19

Evaluator Name and Title: Phillip Fung, Supervising Civil 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:**

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

## 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	<b>Overall, how did the Contractor rate on work performance?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	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 type="checkbox"/>	N/A <input checked="" 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	<b>Overall, how did the Contractor rate on timeliness?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding timeliness and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

Unsatisfactory  
Marginal  
Satisfactory  
Outstanding  
Not Applicable

**FINANCIAL**

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	<p>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?</p> <p>Number of Claims: _____</p> <p>Claim amounts: \$ _____</p> <p>Settlement amount: \$ _____</p>				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	<p><b>Overall, how did the Contractor rate on financial issues?</b></p> <p><b>The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines.</b></p> <p><b>Check 0, 1, 2, or 3.</b></p>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

Unsatisfactory  
 Marginal  
 Satisfactory  
 Outstanding  
 Not Applicable

**COMMUNICATION**

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.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
22	<b>Overall, how did the Contractor rate on communication issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	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	<b>Overall, how did the Contractor rate on safety issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	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  | <u>2</u> | X 0.25 = | <u>.50</u> |
| 2. Enter Overall score from Question 13 | <u>2</u> | X 0.25 = | <u>.50</u> |
| 3. Enter Overall score from Question 18 | <u>2</u> | X 0.20 = | <u>.40</u> |
| 4. Enter Overall score from Question 22 | <u>2</u> | X 0.15 = | <u>.30</u> |
| 5. Enter Overall score from Question 28 | <u>2</u> | X 0.15 = | <u>.30</u> |

TOTAL SCORE (Sum of 1 through 5): 2.0

OVERALL RATING: 2.0

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.*

\_\_\_\_\_  
Contractor / Date

 9/5/17  
\_\_\_\_\_  
Resident Engineer / Date

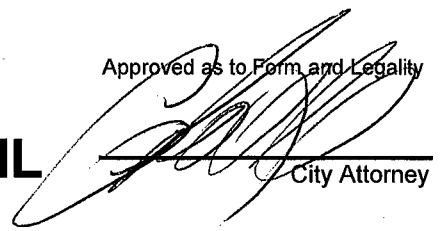
 9/5/17  
\_\_\_\_\_  
Supervising Civil Engineer / Date

**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.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL



City Attorney

2017 NOV 21 PM 5:13

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

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

**RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND INCREASING THE CHANGE ORDER LIMIT FOR THE CONTRACT WITH FLATIRON WEST, INC. FOR THE REPLACEMENT OF EMBARCADERO BRIDGE OVER LAKE MERRITT CHANNEL (PROJECT NO. G121810) FROM TWENTY-FIVE PERCENT (25%) TO EIGHTY PERCENT (80%) OF THE ORIGINAL CONTRACT AMOUNT FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED TWENTY-NINE MILLION FIVE HUNDRED NINETEEN THOUSAND ONE HUNDRED FIFTY DOLLARS (\$29,519,150.00)**

**WHEREAS**, the City of Oakland was awarded federal and State Proposition 1B funds for the Replacement of Embarcadero Bridge (Project No. G121810); and

**WHEREAS**, a contract for construction was awarded to Flatiron West, Inc. on January 20, 2015 in the amount of \$16,399,527.10 and executed in accordance with Resolution No. 85361 C.M.S.; and

**WHEREAS**, construction is currently underway by Flatiron West, Inc.; 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**, staff has requested additional grant funds from Caltrans to cover the cost and has received a positive response; and

**WHEREAS**, grant funding for the additional work under this contract will be available, pending Caltrans approval to increase the grant, in the following project accounts:

- Department of Transportation Fund (2116); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001298; Award 21541; \$8,020,818.00; and

**WHEREAS**, the additional grant for this contract requires a local match of \$1,039,182.00 and funds are available from the following funding sources:

- Measure B Fund (2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001512; Award 21542; \$500,000.00

- Measure B Fund (2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1001512; Award 21542; \$365,000.00
- Measure BB Fund (2216); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project 1000819; Award 21542; \$174,182.00; 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; 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.B, 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 Flatiron West, Inc. for the Replacement of Embarcadero Bridge (Project No. G121810) from twenty-five percent (25%) to Eighty percent (80%) of the original contract amount, because it is vital to the project to do so in order to allow staff to complete the project as required by the federal grant, maintain continuity, and minimize costly delays and disruption during the middle of ongoing project construction; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is authorized to increase the change order limit for the contract with Flatiron West, Inc. for the Replacement of Embarcadero Bridge (Project No. G121810) from twenty-five percent (25%) to eighty percent (80%) of the original contract amount contingent upon Caltrans approval of additional grant funds for a total contract amount not-to-exceed Twenty Nine Million Five Hundred Nineteen Thousand One Hundred Fifty Dollars (\$29,519,150.00).

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

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

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