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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT

2009 FEB 26 PM 3: 57

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: March 10, 2009

RE: **Resolution Waiving The RFP/RFQ Competitive Selection Process Requirements And Authorizing Amendment No. 3 To The Professional Services Contract With T.Y. Lin International/EarthTech, 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 Six Hundred Eighty Thousand Dollars (\$680,000.00) For A Total Contract Amount Not To Exceed One Million Nine Hundred Eighty Thousand Two Hundred Forty-Four Dollars (\$1,980,244.00)**

SUMMARY

A resolution has been prepared that waives the Request For Proposal/Request For Qualifications ("RFP/RFQ") competitive selection process requirements and authorizes an amendment to the existing professional services contract with T.Y. Lin International/EarthTech, Joint Venture to extend the contract and increase the scope of work and contract amount by \$680,000.00 for a total contract amount not to exceed \$1,980,244.00.

T.Y. Lin International/EarthTech, Joint Venture (previously known as CCS Planning and Engineering/J. Muller International, Joint Venture) was selected in December 2001, through a Request for Proposal (RFP) process, to provide full design services for the Replacement of Embarcadero Bridge over Lake Merritt Channel Project (Project No. G121810). The project is located in Council Districts 2 and 3.

The increase in the contract amount is made necessary by additional changes to the scope of work and delays in obtaining environmental approvals. The added costs will be reimbursed to the City by a federal grant at seventy-eight percent (78%).

FISCAL IMPACT

In April 2008, additional federal funds in the amount of \$1,032,468.00 were granted by Caltrans to cover additional costs. This additional federal grant of \$1,032,468.00 requires \$289,357.00 in local matching funds. With these additional federal and local matching funds, the total preliminary engineering (PE) budget has increased from \$1,480,000.00 to \$2,801,825.00.

The total preliminary engineering budget includes \$2,384,468.00 in federal and state funds and

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\$417,357.00 in local matching funds. Measure 'B' funds are available to use for the local match. A summary of federal, state, and local matching funding is shown below in Table 1:

Table 1 - Funding Summary

Funding Allocation Fiscal Year	Grant (Project: G121810) (Fund: 2116)		Local Matching Funds (Project: G121840) (Fund: 2211)	Total Preliminary Engineering (PE) Budget
	Federal Funds	State Seismic Matching Funds		
2000/2001	\$904,992	\$143,008	\$52,000	\$1,100,000
2005/2006	\$304,000	\$0	\$76,000	\$380,000
2007/2008	\$1,032,468	\$0	\$289,357	\$1,321,825
Total PE Budget	\$2,241,460 (80%)	\$143,008 (5%)	\$417,357 (15%)	\$2,801,825 (100%)

The initial professional services contract with T.Y. Lin/EarthTech was for a not-to-exceed amount of \$1,057,050.00. Amendment No. 1 (Resolution No. 79650 C.M.S.) was issued to extend the duration of the contract until December 31, 2007 and to increase the contract amount by \$243,194.00 for a total not-to-exceed amount of \$1,300,244.00. Amendment No. 2 was issued to extend the duration of the contract until December 31, 2008 without increase to the contract amount.

Amendment No. 3 will extend the duration of the contract and increase the contract amount by 680,000.00 for a total contract amount not to exceed \$1,980,244.00 including contingencies. The project-to-date expenditure on the contract is \$855,121.00. With the approval of Amendment No. 3, the remaining balance in the contract to complete the design services will be \$1,125,123.00. Funds for Amendment No. 3 are available as follows:

- Replacement of Embarcadero Bridge Project (G121810), Department of Transportation Fund (2116), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411).
- Replacement of Embarcadero Bridge Project (G121840), Measure B-ACTIA Fund (2211), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411).

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The City will be responsible for maintaining the bridge after completion. However, this project will have a long-term positive fiscal impact to the City by decreasing maintenance costs.

BACKGROUND

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.

In May 2001, the City of Oakland received a federal and state matching grant for preliminary engineering (PE) in the amount of \$1,048,000.00. The grant required \$52,000.00 in local matching funds for a total preliminary engineering budget of \$1,100,000.00. Federal, state, and local matching funds were appropriated into the project in fiscal year 2000/2001.

T.Y. Lin International/EarthTech, Joint Venture (previously known as CCS Planning and Engineering/J. Muller International, Joint Venture) was selected through a Request For Proposal (RFP) process in December 2001 to provide full design services for the bridge replacement project, including preparing plans, specifications and cost estimates, preparing environmental studies necessary to fulfill California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements, and securing permits.

The original professional services contract with T.Y. Lin/EarthTech was for a not-to-exceed amount of \$1,057,050.00. The City Council approved the award of the contract on February 13, 2001 by Council Resolution No. 76282 C.M.S. The contract was executed on December 3, 2001 and was anticipated to be completed by December 31, 2005.

The first delay in the project schedule was caused by Caltrans during the environmental approval process. As part of the funding requirements, detailed design could not start until the environmental documents were approved by Caltrans. Due to the backlog of projects at Caltrans Environmental Division, Caltrans did not approve the project until November 23, 2005. This lengthy process had put the design work on hold and caused a two-year delay to the project.

In September 2005, additional federal funds in the amount of \$304,000.00 were granted by Caltrans to cover additional design costs, such as additional environmental coordination, additional geotechnical work not originally anticipated and project management. The additional grant required \$76,000.00 in local matching funds for a total preliminary engineering budget of \$1,480,000.00. Federal and local matching funds were appropriated into the project in fiscal year 2005/2006.

Amendment No. 1 was approved by the City Council on December 20, 2005 extending the duration of the contract until December 31, 2007 and increasing the contract amount by

\$243,194.00 for a total not-to-exceed amount of \$1,300,244.00.

The second delay was caused by the lengthy San Francisco Bay Conservation and Development Commission (BCDC) permit approval. The consultant was unable to resume design until BCDC approved the project in December 2007.

Due to the 6-year delay (2001 – 2007) in obtaining Caltrans NEPA and BCDC environmental approval, additional design fees were incurred by the consultant, which include costs for additional environmental coordination, additional scope of work not originally anticipated and project management.

Amendment No. 2 was issued on January 1, 2008 to extend the duration of the contract until December 31, 2008 without increase to the contract amount. This amendment was necessary to keep the project on track while negotiating with Caltrans to obtain additional federal funds.

In April 2008, additional federal funds in the amount of \$1,032,468.00 were granted by Caltrans to cover additional design costs, such as additional environmental coordination, additional scope changes and project management. The additional grant requires \$289,357.00 in local matching funds for a total preliminary engineering budget of \$2,801,825.00. Amendment No. 3 will increase the contract amount by \$680,000.00 for a total contract amount not to exceed \$1,980,244.00 including contingencies.

KEY ISSUES AND IMPACTS

Amendment No. 3 will allow the consultant to resume and complete the remaining design services. Currently, the project design is at 80% completion. This amendment will allow the consultant to continue the design work to completion. The completion of 100% final construction documents is scheduled to occur in December 2009. Construction is anticipated to start in Spring 2011 and be completed by the end of 2012.

It is in the City's best interest, from a liability and practical perspective, to waive the Request For Proposal/Request For Qualifications ("RFP/RFQ") competitive selection requirements of Section 2.04.051 A. of the Oakland Municipal Code (the "OMC"), pursuant to OMC Section 2.04.051 B, and have T.Y. Lin International/EarthTech, Joint Venture resume and complete the services under this contract. In addition, T.Y. Lin/EarthTech has extensive project knowledge, has completed 80% of the work and is in the process of developing the 95% documents. If the City were to undertake a new competitive RFP process it would significantly delay the project and risk loss of federal and state grant funding. Also, it is not advisable to have multiple design consultant indemnification and liability obligations on a single project.

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PROJECT DESCRIPTION

The project will consist of the removal and replacement of the existing bridge, including complete reconstruction of approaches, bridge abutments, pavement, bike facilities, concrete sidewalk, curb and gutter, curb ramps, street lighting and furniture, railing, restroom facilities, and minor landscaping.

The bridge will be widened to accommodate two 12-ft travel lanes, two 6-ft bike lanes/shoulders, 5-ft sidewalk on the north side, and 12-ft multi-use path on the south side to connect to the waterfront trail. In addition, the new bridge will be raised approximately six feet to allow for small boats to navigate underneath the bridge.

Additional scope to the contract will include additional professional services for the environmental coordination and documentation, design of restroom facilities adjacent to the proposed bridge, bidding and construction support, and additional design contingencies.

EVALUATION OF PAST PERFORMANCE

The Consultant Performance Evaluation (Schedule L-2) for T.Y. Lin International and EarthTech is not available for past projects. The original contract and previous amendments for this project were issued prior to the performance evaluation requirements. The City currently has two active contracts with T.Y. Lin International and the consultant is performing satisfactory on these projects.

SUSTAINABLE OPPORTUNITIES

Economic: The project will generate jobs for Oakland residents, business tax, sales tax and other revenues for the City by those who work on the project.

Environmental: Environmental factors and opportunities will be considered and incorporated to the extent feasible. The project will consider the use of recycled materials in the products specified and integrate other environmental opportunities, waste reduction and energy conservation to the extent possible.

Social Equity: The Replacement of Embarcadero Bridge Project will enhance pedestrian and vehicular safety in the neighborhood.

DISABILITY AND SENIOR CITIZEN ACCESS

The project is being designed in full compliance with the Americans with Disabilities Act (ADA) and will provide improvements to the access for seniors and persons with disabilities.

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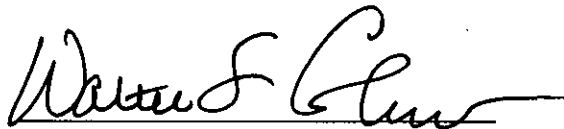
RECOMMENDATION AND RATIONALE

It is recommended that the City Council approve the resolution that waives the RFP/RFQ competitive selection process requirements and authorizes Amendment No. 3 to the professional services contract with T.Y. Lin International/EarthTech, Joint Venture for the Replacement of Embarcadero Bridge over Lake Merritt Channel Project (Project No. G121810) to: 1) extend the duration of the contract, 2) add necessary services and 3) increase the contract amount to cover the new services and increased labor costs by \$680,000.00 for a total contract amount not to exceed \$1,980,244.00. The approval of the resolution authorizing Amendment No. 3 will ensure that the project can be completed.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve this resolution.

Respectfully submitted,

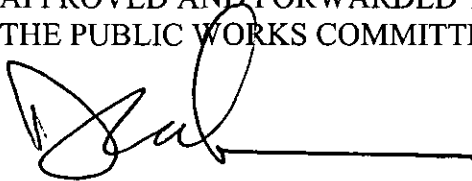


Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:
Michael Neary, P.E., Deputy Director
CEDA, Department of Engineering and Construction

Prepared by:
Jaime Heredia, P.E., Supervising Civil Engineer
Engineering Design & Right of Way Management Division

APPROVED AND FORWARDED TO THE
THE PUBLIC WORKS COMMITTEE:



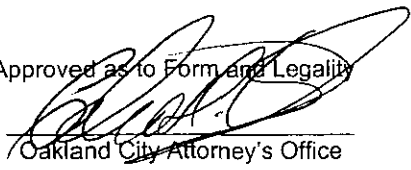
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Approved as to Form and Legality


Oakland City Attorney's Office

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Resolution No. _____ C.M.S.

RESOLUTION WAIVING THE RFP/RFQ COMPETITIVE SELECTION PROCESS REQUIREMENTS AND AUTHORIZING AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES CONTRACT WITH T.Y. LIN INTERNATIONAL/EARTHTECH, 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 SIX HUNDRED EIGHTY THOUSAND DOLLARS (\$680,000.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED ONE MILLION NINE HUNDRED EIGHTY THOUSAND TWO HUNDRED FORTY-FOUR DOLLARS (\$1,980,244.00)

WHEREAS, on October 25, 1999, the City issued a Request for Proposals (RFP) for professional civil engineering services for the Replacement of Embarcadero Bridge over Lake Merritt Channel Project (Project No. G121810), and five firms responded to the RFP; and

WHEREAS, on February 13, 2001, the contract was awarded by Council Resolution No. 76282 C.M.S. to T.Y. Lin International/EarthTech, Joint Venture (previously known as CCS Planning and Engineering/J. Muller International, Joint Venture) for an amount not to exceed \$1,057,050.00 and the contract was fully executed on December 3, 2001; and

WHEREAS, the project was delayed due to the National Environmental Policy Act (NEPA) approval process; and

WHEREAS, Amendment No. 1 was approved by the City Council on December 20, 2005 extending the duration of the contract until December 31, 2007 and increasing the contract amount by \$243,194.00 to a not-to-exceed amount of \$1,300,244.00 to cover additional costs related to environmental coordination, scope changes, and project management; and

WHEREAS, the project was delayed again due to San Francisco Bay Conservation and Development Commission (BCDC) permit approval process; and

WHEREAS, Amendment No. 2 was issued on January 1, 2008 to extend the duration of the contract until December 31, 2008 without increase to the contract amount; and

WHEREAS, in April 2008, the City received additional federal funds for the project in the amount of \$1,032,468.00 to cover additional design costs, such as additional environmental coordination, additional scope changes and project management; and

WHEREAS, the additional grant requires \$289,357.00 in local matching funds; and

WHEREAS, the project design is at 80% completion and the final construction documents are scheduled to be completed by December 2009; and

WHEREAS, from a liability and practical perspective and based on the circumstances described in the Agenda Report that accompanies this resolution, it is in the City's best interest to waive the Request For Proposal/Request For Qualifications ("RFP/RFQ") competitive selection requirements of Section 2.04.051 A. of the Oakland Municipal Code (the "OMC"), pursuant to OMC Section 2.04.051 B, and have T.Y. Lin International/EarthTech, Joint Venture resume and complete the services under this contract; and

WHEREAS, the required balance of funds for the contract is available in the Embarcadero Bridge over Lake Merritt Channel Project (G121810), Department of Transportation Fund (2116), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411) and the Embarcadero Bridge over Lake Merritt Channel Project (G121840), Measure B-ACTIA Fund (2211), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411); and

WHEREAS, the City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature; and

WHEREAS, the City Council finds that services under contract will be temporary; and

WHEREAS, the City Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That the Council hereby finds and determines that, from a liability and practical perspective and based on the circumstances set forth in the Agenda Report which accompanies this Resolution, it is in the best interest of the City to waive the competitive RFP/RFQ selection requirements of OMC Section 2.04.051 A, pursuant to OMC Section 2.04.051 B, and have T.Y. Lin International/EarthTech, Joint Venture resume and complete the services under this contract; and

FURTHER RESOLVED: That the City Administrator, or his designee, is hereby authorized to execute Amendment No. 3 to the contract with T.Y. Lin International/EarthTech, Joint Venture extending the contract and increasing the scope of services and contract by an amount not to exceed six hundred eighty thousand dollars (\$680,000.00), for a total contract amount not to exceed one million nine hundred eighty thousand two hundred forty-four dollars (\$1,980,244.00); and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is hereby authorized to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in the total dollar amount of the agreement, provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California