

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2016 FEB 25 PM 3:38

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Brooke A. Levin
Director, Public Works

SUBJECT: Latham Square Streetscape
Improvements

DATE: February 11, 2016

City Administrator Approval

Date:

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following:

- 1) Resolution Waiving Advertising And Competitive Bidding And Authorizing The Increase Of The Change Order Limit For The Contract With McGuire And Hester, Inc. For Construction Of The Latham Square Streetscape Improvement Project (No. C464560) From Fifteen Percent Or Six Hundred Twenty-Eight Thousand Five Hundred Twenty-Three Dollars (15% Or \$628,523.00) To Forty Percent Or One Million Six Hundred Seventy-Six Thousand Sixty-Two Dollars (40% Or \$1,676,062.00) Of The Original Contract For A Total Contract Amount Not-To-Exceed Five Million Eight Hundred Sixty-Six Thousand Two Hundred Eighteen Dollars (\$5,866,218.00).
- 2) Resolution Authorizing The City Administrator Or Designee To Negotiate And Execute An Amendment To The Reimbursement Agreement With East Bay Municipal Utilities District ("EBMUD"), Increasing The Not To Exceed Reimbursement Amount From Three Hundred Thousand Dollars (\$300,000.00) To Eight Hundred Thousand Dollars (\$800,000.00) And To Accept And Appropriate The Funds For Construction, Professional Service Agreements And City Staff Costs Associated With The Relocation Of The EBMUD Water Main For The Latham Square Streetscape Improvements Project (No. C464560) Without Return To Council.
- 3) Resolution Authorizing The City Administrator Or Designee To Negotiate And Execute A Reimbursement Agreement With AT&T, Inc. ("AT&T") In The Amount Not To Exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) And To Accept And Appropriate The Funds For Construction, Professional Service Agreements And City Staff Costs Associated With AT&T's Vault Reconstructions For The Latham Square Streetscape Improvements Project (No. C464560) Without Return To Council.

Item: 3
Public Works Committee
March 8, 2016

EXECUTIVE SUMMARY

Council approval is requested for the three resolutions recommended above for the Latham Square Plaza Streetscape Improvement project. Approval of the first resolution will authorize the City Administrator to increase and execute change orders up to forty percent (40%) of the original construction contract with McGuire and Hester, Inc. for construction of the Latham Square Streetscape Improvement project for a total contract amount of \$5,866,218.00. The original base contract award amount is \$4,190,156.00. The action will allow the project to pay McGuire and Hester for various change orders due to unforeseen site conditions, utility conflicts, traffic signal pole and controller changes, construction work related to the revised EBMUD water main relocation, AT&T utility vault replacements, etc.

The change order costs associated with the EBMUD work are reimbursable under an existing reimbursement agreement authorized at the time of the base contract award. Due to unforeseen conditions and unknown utility conditions, an amendment to the agreement is required for the additional EBMUD work. Approval of the second resolution will authorize the City Administrator to revise the reimbursement agreement with EBMUD to increase the maximum reimbursement amount for the relocated water main and associated expenses and coordination costs.

The change order costs associated with the AT&T work will be reimbursed under a reimbursement agreement to be negotiated with AT&T. Approval of the third resolution will authorize the City Administrator to enter into an agreement directly with AT&T to receive reimbursement for construction and staff impact costs incurred from AT&T's vault replacements on Broadway.

BACKGROUND / LEGISLATIVE HISTORY

The Latham Square improvements are part of a greater effort to enhance Oakland's Uptown District and are intended to increase public safety, improve pedestrian movement, calm area vehicle traffic and provide for shared bicycle and vehicular travel lanes. The goals are to increase economic development, support retail development, upgrade existing infrastructure and to compliment the public and private investments being made in the Uptown Area. The resulting plaza is intended to become a signature space in the gateway to Uptown.

On March 17, 2015, the City Council approved Resolution No. 85455 C.M.S. and authorized a construction contract with McGuire and Hester, Inc. in the amount of \$4,190,156.00. Concurrently, City Council also approved Resolution No. 85456 C.M.S. which authorized the City Administrator or designee to negotiate and execute a reimbursement agreement with EBMUD for the relocation of a 121 year old water main for an amount not-to-exceed \$300,000.00, which is part of the base contract scope.

Soon after construction commenced, various unforeseen conditions were discovered that impacted the success of the project. These included two 110-year old AT&T telecommunication vaults and other aging, unmapped underground utilities. Additional work was necessary beyond the originally anticipated scope.

The construction contract document includes authority for up to fifteen percent (15%) in change orders to cover unforeseen conditions. As a result of the unanticipated, significant utility construction, extensive coordination, and project related change orders, increase to the change order limit is necessary to complete the project.

The utility work in the base contract did not anticipate the unforeseen subsurface conditions, unknown utility infrastructure, and conflicting conditions that resulted in significant additional work and coordination. The existing EBMUD reimbursement agreement will require an amendment to increase the amount to be reimbursed to the City from \$300,000.00 to an amount not-to-exceed \$800,000.00. In addition, a new reimbursement agreement with AT&T will be required in an amount not-to-exceed \$350,000.00 to recover the costs of relocating the AT&T vaults and impact costs to the City project. These costs have been agreed to by representatives of the respective utilities.

Besides the utility relocation work, which is the majority of change order work on this project, additional work was required for various other unforeseen scope of work such as the need for waterproofing sidewalk basements. The details of additional work are described below.

ANALYSIS AND POLICY ALTERNATIVES

The utility work was unforeseen, necessary scope of work discovered after the subsurface was exposed. The unforeseen work needed to be addressed before the remaining scope could continue. The cost of the additional work would have impacted the remaining project resulting in reduction of the scope of work if the contract limit is not increased. However, reducing the scope would diminish the project and the expectation for a plaza to meet the Uptown vision.

Moreover, the unforeseen poor conditions of the adjacent Cathedral-building sidewalk substrate impacted the contractor's ability to apply the waterproofing necessary before completing subsurface work.

Because this project is almost entirely grant funded with set deadlines, the project schedule would have been seriously impacted if the additional utility work did not proceed in a timely manner. With inaccurate information and aged, congested subterranean infrastructure, the gathering of existing conditions required an inordinate amount of on-site manual pot-holing and collaboration among utility agencies and various contractors to develop a workable solution. To ensure that the City adheres to grant-fund timeline, staff authorized the contractor in the field to continue working with AT&T and EBMUD to resolve the utilities and move the project forward without delay.

City Council's authorization of the requested resolutions will allow the City to be eligible for reimbursement of construction and staff costs incurred, including contract administration, project management, and inspection services, that are associated with the additional EBMUD and AT&T work.

In order to make the project whole, meet the community's expectations and adhere to grant deadlines staff moved the project forward and pre-approved necessary work, which staff expects will be reimbursed by the utilities. Alternatively, if advance authorization to increase the

reimbursement agreement was sought before the utility work was authorized while the street surface was opened, the project schedule would have been delayed as well as the potential for extensive delay claims from the contractor. The cost of the delay would be significant atop of the cost to complete the utility work. There was also the potential to jeopardize the grant funds due to firm grant deadlines.

Details of Required Change Orders:

- 1) **Change order work authorized to-date (10.03%):** The project has to-date incurred just over ten percent of change orders, a total of \$420,477.43 (10.03%). The amount authorized to-date includes work associated with additional site security due to protests and the Warriors Championship parade, additional demolition due to minor grading changes, additional work needed to connect power to PG&E vaults, additional subgrade preparation required prior to waterproofing the Cathedral building basement due to the unexpected poor condition of the sidewalk substrate, installation of a temporary traffic signal at 15th Street to alleviate business community's concerns, material changes, and resolving underground utility conflicts by adding new storm drain inlets. Due to the grant deadlines and anticipated El Niño, much of this work need to be completed expeditiously, such as the waterproofing of the basement sidewalks, to ensure minimal liability from the project to the City.
- 2) **Reimbursable EBMUD & AT&T work to-date (11.33%):** Additional work total of \$474,671.00 (11.33%) has been completed, pending a formal change order yet to be executed.

In order to minimize impacts to the business community and noting the project grant deadlines, tasks such as the waterproofing and underground work needed to move forward rapidly to avoid the potential impacts of the impending El Niño and schedule delay impacts.

After significant potholing within the project site and adjacent area to determine existing conditions, staff narrowed the issues down to four utility companies and their respective contractors. Collectively, the utility companies partnered with the City to execute a plan that could be executed in a timely manner to the satisfaction of all parties. This extended the project cost significantly and decreased the project contingency funds accordingly.

The schedule of the project is heavily dependent on the completion of the extensive underground work as mentioned under the Utilities section. As the immediate subsurface area is filled with a variety of existing utilities, the water lines needed to be installed twelve feet in depth and thread between, above and below an inordinate number of immediately adjacent utilities. Clearances between utilities had to be compromised to provide the most reasonable geometrics.

In addition to the schedule, AT&T's scope also impacted City's contractor's sequence of work. The EBMUD water main relocation work and AT&T's vault replacements will likely result in some additional contractor overhead cost claims associated with the extended construction schedule which shall be negotiated. The project stakeholders: Contractor, AT&T, EBMUD, City, etc. all worked cooperatively to minimize the extended costs and to continue with the project to minimize further schedule delays.

3) Change Orders Anticipated (11.96%): Additional work totaling approximately \$501,119.69 (11.96%) is needed for work that has been authorized under a time and material agreement and for anticipated work. Work authorized includes:

- Patching and waterproofing an uncovered void in Rotunda Building basement wall,
- Various underground utility conflicts within the plaza,
- Underground utility conflicts with new storm drain inlets and pipes at 16th Street and Telegraph Avenue intersection,
- Traffic signal pole and controller changes, disposal of unforeseen existing pavement fabric,
- Adding fiber optic conduit on Telegraph Avenue from 17th Street to 20th Street to complete gap in City's coverage,
- Adding mill and overlay and striping on Telegraph Avenue from 17th Street to 20th Street to complete gap in recent paving work performed in a separate project, and
- Removal and disposal of anticipated cobble stones found in 16th Street pavement during mill and overlay operations.

4) Change Order Contingency (6.68%): As a contingency, an additional contract change order fund reserve in the amount of \$279,733.00, which represents 6.68% of the contract award, is recommended for potential future changes to the construction contract. This contingency is in anticipation of potential complications for the installation of traffic signal at 17th Street and Telegraph Avenue at basement backfill, and potential bulb out construction complications at intersections of Broadway at 15th Street and Telegraph Avenue at 17th Street.

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 exceed the change order limit, because construction is currently underway by McGuire and Hester, Inc. and it is vital to implement the changes and additional work in order to maintain continuity, minimize costly delays and disruptions of ongoing project construction for project completion.

FISCAL IMPACT

Based on above description of the required additional work, approval of the first resolution will authorize the City Administrator to execute change orders up to forty percent (40%) or an additional \$1,676,062.00 above the original construction contract amount of \$4,190,156.00 with McGuire and Hester, Inc. for a total contract amount not-to-exceed \$5,866,218.00.

A breakdown of the construction costs is as follows:

Contractor's Base Contract (A) \$4,190,156.00

<u>Change Order Cost Category</u>	<u>Description</u>	<u>% of Contract Change Order</u>	<u>AMOUNT</u>
Change Orders to Date	Contract Change Orders that have been approved as of December 29, 2015.	10.03%	\$420,477.43
Change Orders Related to Reimbursable Utility Work	Contract Change Orders that are related to the EBMUD water main relocation and AT&T vault replacement work, all of which is reimbursable.	11.33%	\$474,671.00
Change Orders Anticipated	Contract Change Orders that have not been approved but 1) the work has been authorized under time and material agreement and final billing amount has not been approved yet, or 2) there is high likelihood that the additional work will be needed	11.96%	\$501,119.69
Change Order Contingency	Contract Change Order contingency for potential future changes.	6.68%	\$279,794.28

Change Order Subtotal (B) 40% \$1,676,062.00

Total Revised Contract Maximum (A+B) \$5,866,218.00

Funds Available for Change Orders:

FUNDING SOURCES	Organization	Account	Project	Program	AMOUNT
2214 – ACTIA Reimbursable Grants	92260 – Capital Project Transportation Planning and Funding	57311 – Structures and Improvements	C194922 – Telegraph Streetscape	IN17 – Transportation Planning and Funding	\$ 658,984.00
2999 – Miscellaneous Grants	92260 – Capital Project Transportation Planning and Funding	57311 – Structures and Improvements	C194925 – Latham Square - EBMUD	IN06 – Project Delivery	\$500,000.00 Additional appropriation after Council Authorization
2215 – Measure F - Vehicle Registration Fee	92260 – Capital Project Transportation Planning and Funding	57311 – Structures and Improvements	C458830 – Paving and Striping	IN17 – Transportation Planning and Funding	\$284,800.00
2216 – Measure BB - Alameda County Transportation	92260 – Capital Project Transportation Planning and Funding	57311 – Structures and Improvements	C491142 – Traffic Signal Management -Measure BB	IN17 – Transportation Planning and Funding	\$232,278.00
Available Funds					\$1,676,062.00

PUBLIC OUTREACH / INTEREST

The City has worked closely with local stakeholders on the plaza design. Outreach activities included: Over 25 individual meetings with local businesses, property owners, residents and other stakeholders; public presentations to the Oakland Chamber of Commerce and Oakland Bicycle & Pedestrian Advisory Committee; and five community design meetings held between September 2013 and July 2014.

A website, which is updated periodically with the latest information, has been established since the initiation of this project to keep the community informed of the project, see:

<http://www2.oaklandnet.com/Government/o/PWA/o/EC/s/BicycleandPedestrianProgram/LSPP/index.htm>

Item: _____
 Public Works Committee
 March 8, 2016

COORDINATION

The design and construction work was reviewed and coordinated with:

- Alameda-Contra Costa Transit District
- AT&T, Inc.
- Bay Area Rapid Transit
- East Bay Municipal Utility District
- Other utility companies
- Oakland Public Works – Bureau of Infrastructure and Operations (Electrical Services and Traffic Maintenance and Infrastructure Maintenance Streets, Sewers, Storm Drains)
- Oakland Public Works – BEC ADA Program, Engineering Design and Right of Way, Transportation Planning and Funding, and Transportation Services Division)
- Oakland Public Works – Bureau of Facilities & Environment (Facilities Services)
- Oakland Planning & Building Department
- Oakland Economic and Workforce Development

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 stormwater management features such as rain gardens and inlet trash screens that will improve the water quality and reduce the peak flow and velocities of stormwater entering into the City's stormwater system and waterways. The improved traffic signals and intersections will reduce traffic delay and therefore reduce carbon in the environment. The contractor will be required to make every effort to reuse clean fill materials and use recyclable concrete and asphalt products. Best Management Practices for the protection of storm water runoff during construction will be required.

Social Equity: This project is improving traffic intersections, sidewalks, and a public plaza in downtown Oakland, thereby benefiting all Oakland residents.

CEQA

On January 7, 2014, the City Council adopted Resolution No. 84793 C.M.S. approving a permanently expanded and redesigned Latham Square Plaza, and found the project to be categorically exempt from the provisions of CEQA, since it is not expected to have a significant effect on the environment. The project was found to be exempt under CEQA Guidelines sections 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15302 (replacement or reconstruction), and 15332 (infill), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively would provide an overall basis for CEQA clearance. These exemptions remain valid.

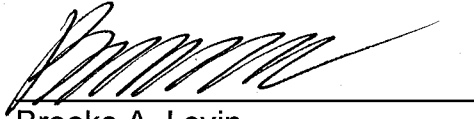
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends council approve the three recommended resolutions:

- 1) Resolution Waiving Advertising And Competitive Bidding And Authorizing The Increase Of The Change Order Limit For The Contract With McGuire And Hester, Inc. For Construction Of The Latham Square Streetscape Improvement Project (No. C464560) From Fifteen Percent Or Six Hundred Twenty-Eight Thousand Five Hundred Twenty-Three Dollars (15% Or \$628,523.00) To Forty Percent Or One Million Six Hundred Seventy-Six Thousand Sixty-Two Dollars (40% Or \$1,676,062.00) Of The Original Contract For A Total Contract Amount Not-To-Exceed Five Million Eight Hundred Sixty-Six Thousand Two Hundred Eighteen Dollars (\$5,866,218.00).
- 2) Resolution Authorizing The City Administrator Or Designee To Negotiate And Execute An Amendment To The Reimbursement Agreement With East Bay Municipal Utilities District ("EBMUD"), Increasing The Not To Exceed Reimbursement Amount From Three Hundred Thousand Dollars (\$300,000.00) To Eight Hundred Thousand Dollars (\$800,000.00) And To Accept And Appropriate The Funds For Construction, Professional Service Agreements And City Staff Costs Associated With The Relocation Of The EBMUD Water Main For The Latham Square Streetscape Improvements Project (No. C464560) Without Return To Council.
- 3) Resolution Authorizing The City Administrator Or Designee To Negotiate And Execute A Reimbursement Agreement With AT&T, Inc. ("AT&T") In The Amount Not To Exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) And To Accept And Appropriate The Funds For Construction, Professional Service Agreements And City Staff Costs Associated With AT&T's Vault Reconstructions For The Latham Square Streetscape Improvements Project (No. C464560) Without Return To Council.

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

Respectfully submitted,



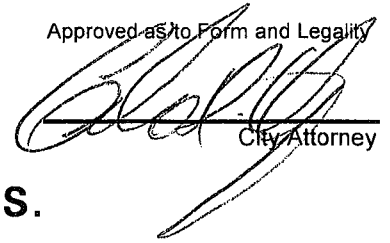
Brooke A. Levin
Director, Oakland Public Works Department

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

Reviewed by:
Danny Lau, Manager
Project Delivery Division

Prepared by:
Diane Tannenwald, CIP Coordinator
Project Delivery Division

OAKLAND CITY COUNCIL



City Attorney

2016 FEB 25 PM 3:38 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE INCREASE OF THE CHANGE ORDER LIMIT FOR THE CONTRACT WITH MCGUIRE AND HESTER, INC. FOR CONSTRUCTION OF THE LATHAM SQUARE STREETScape IMPROVEMENT PROJECT (NO. C464560) FROM FIFTEEN PERCENT OR SIX HUNDRED TWENTY-EIGHT THOUSAND FIVE HUNDRED TWENTY-THREE DOLLARS (15% OR \$628,523.00) TO FORTY PERCENT OR ONE MILLION SIX HUNDRED SEVENTY-SIX THOUSAND SIXTY-TWO DOLLARS (40% OR \$1,676,062.00) OF THE ORIGINAL CONTRACT FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED FIVE MILLION EIGHT HUNDRED SIXTY SIX THOUSAND TWO HUNDRED EIGHTEEN DOLLARS (\$5,866,218.00)

WHEREAS, on March 17, 2015, the City Council approved Resolution No. 85455 C.M.S. and authorized a construction contract with McGuire and Hester, Inc. in the amount of \$4,190,156.00 and executed in accordance with Resolution No. 85455 C.M.S.; and

WHEREAS, various change orders, including unforeseen conditions and essential field modifications for the replacement of telecommunication vaults and water main relocations, require additional change order capacity to successfully complete the project; and

WHEREAS, the City of Oakland received state grant and local funds for the Latham Square Streetscape Improvements (Project No. C464560); and

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

WHEREAS, it is vital to implement the changes and additional work and to maintain continuity and minimize costly delays and disruption of ongoing project construction and completion; 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

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PUBLIC WORKS CMTE.

MAR 08 2016

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 in the following sources:

- Fund 2214 – ACTIA Reimbursable Grants, Organization No. 92260 – Capital Project Transportation Planning and Funding, Account 57311 – Structures and Improvements, Project No. C194922 – Telegraph Streetscape
- Fund 2999 – Miscellaneous Grants, Organization No. 92260 – Capital Project Transportation Planning and Funding, Account 57311 – Structures and Improvements, Project No. C194925 – Latham Square –EBMUD
- Fund 2215 – Measure F - Vehicle Registration Fee, Organization No. 92260 – Capital Project Transportation Planning and Funding, Account 57311 – Structures and Improvements, Project No. C458820 – Paving and Striping
- Fund 2216 – Measure BB - Alameda County Transportation, Organization No. 92260 – Capital Project Transportation Planning and Funding, Account 57311 – Structures and Improvements, Project No. C491142 – Traffic Signal Management-Measure BB; 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 contract with McGuire and Hester, Inc. for construction of the Latham Square Streetscape Improvements (Project No. C464560) from fifteen percent or six hundred twenty-eight thousand five hundred twenty-three dollars (15% or \$628,523.00) to forty percent or one million six hundred seventy-six thousand sixty two dollars (40% or \$1,676,062.00) of the original contract amount for a total contract amount not-to-exceed Five Million Eight Hundred Sixty Six Thousand Two Hundred Eighteen Dollars (\$5,866,218.00); and be it

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FURTHER RESOLVED: that the plans and specifications prepared for this project, including any subsequent changes during construction that will be reviewed and adopted by the Director, Public Works Department, or designee, are hereby approved.

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

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PUBLIC WORKS CMTE.

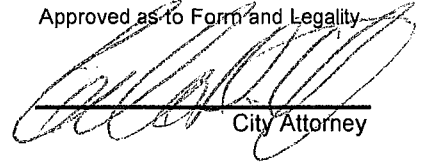
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FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 FEB 25 PM 3:38

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT WITH EAST BAY MUNICIPAL UTILITIES DISTRICT (“EBMUD”), INCREASING THE NOT TO EXCEED REIMBURSEMENT AMOUNT FROM THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) TO EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00) AND TO ACCEPT AND APPROPRIATE THE FUNDS FOR CONSTRUCTION, PROFESSIONAL SERVICE AGREEMENTS AND CITY STAFF COSTS ASSOCIATED WITH THE RELOCATION OF THE EBMUD WATER MAIN FOR THE LATHAM SQUARE STREETSCAPE IMPROVEMENTS PROJECT (NO. C464560) WITHOUT RETURN TO COUNCIL

WHEREAS, on March 17, 2015 the Council passed Resolution No. 85455 C.M.S. awarding a construction contract to McGuire and Hester, Inc. in accordance with project plans and specifications for the Latham Square Streetscape Improvements Project (Project No. C464560) located on Broadway and Telegraph Avenue in the City of Oakland, hereinafter called the “PROJECT”; and

WHEREAS, on March 17, 2015 the Council passed Resolution No. 85456 C.M.S. authorizing the City Administrator or designee to negotiate and execute a reimbursement agreement with East Bay Municipal Utilities District (“EBMUD”) in the amount not to exceed Three Hundred Thousand Dollars (\$300,000.00) and to accept and appropriate these funds for the construction and City staff costs associated with the construction of EBMUD water main relocation for the Latham Square Project (No. C464560).

WHEREAS, the construction of the PROJECT necessitated the relocation of EBMUD’s existing 8-inch and 12-inch diameter mains (“MAIN”) in Broadway, and that this relocation be completed by December 31, 2015; and

WHEREAS, as required by law under certain circumstances, EBMUD is responsible for the relocation of its facilities in order to accommodate certain public street improvements projects; and

WHEREAS, the City and EBMUD recognize that the most timely, mutually-beneficial and cost-effective way for execution of the PROJECT and relocation of the MAIN is for the City to require its construction contractor to install the MAIN as a component of completing the PROJECT, in coordination with and subject to inspection and approval by EBMUD; and

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PUBLIC WORKS CMTE.

WHEREAS, additional EBMUD related reconstruction due to unforeseen conditions and existing aging infrastructure, inaccurate utility maps, unmapped underground aged utilities, and unmapped abandoned utilities, was required; and

WHEREAS, costs associated with the additional unforeseen scope of the MAIN construction, including construction costs, City contract administration costs, inspection costs, staff costs, and change orders, will increase the total costs for which EBMUD shall reimburse the City from \$300,000.00 to not-to-exceed \$800,000.00; now therefore, be it

RESOLVED: That the City Administrator is authorized to negotiate and amend the reimbursement agreement with East Bay Municipal Utilities District (EBMUD) increasing the amount from Three Hundred Thousand Dollars (\$300,000.00) to not-to-exceed Eight Thousand Dollars (\$800,000.00) for the reimbursement of construction costs and City Staff costs associated with the construction of EBMUD water main relocation; and be it

FURTHER RESOLVED: That the Council shall appropriate and allocate additional funds under: Miscellaneous Grants Fund (No. 2999); Capital Project – Transportation Planning and Funding Organization (No. 92260); Structures and Improvements Account (No. 57311); Project No. C194925; and be it

FURTHER RESOLVED: That the City Administrator or designee is hereby authorized and directed to take any and all actions necessary to implement the AGREEMENT, including but not limited to: conduct all negotiations, execute any additional agreements, amendments, modifications, change orders, payment requests, procure all requisite permits, and to conduct all related actions that may be necessary for the completion of the delivery of the construction of the MAIN relocation and reimbursement of the City for associated staff, professional service agreements, and construction costs and appropriate funds without return to Council; and be it

FURTHER RESOLVED: That the contract 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 -

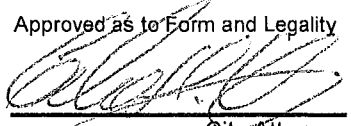
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PUBLIC WORKS CMTE.

MAR 08 2016

ATTEST: _____

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

OAKLAND CITY COUNCIL

Approved as to Form and Legality

City Attorney

2016 FEB 25 PM 4:30 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE A REIMBURSEMENT AGREEMENT WITH AT&T, INC. ("AT&T") IN THE AMOUNT NOT TO EXCEED THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00) AND TO ACCEPT AND APPROPRIATE THE FUNDS FOR CONSTRUCTION, PROFESSIONAL SERVICE AGREEMENTS AND CITY STAFF COSTS ASSOCIATED WITH AT&T'S VAULT RECONSTRUCTIONS FOR THE LATHAM SQUARE STREETSCAPE IMPROVEMENTS PROJECT (NO. C464560) WITHOUT RETURN TO COUNCIL

WHEREAS, on March 17, 2015 the Council passed Resolution No. 85455 C.M.S. awarding a construction contract to McGuire and Hester, Inc. in accordance with project plans and specifications for the Latham Square Streetscape Improvements Project (Project No. C464560) located on Broadway and Telegraph Avenue in the City of Oakland, hereinafter called the "PROJECT"; and

WHEREAS, on March 17, 2015 the Council passed Resolution No. 85456 C.M.S. authorizing the City Administrator or designee to negotiate and execute a reimbursement agreement with East Bay Municipal Utilities District ("EBMUD") in the amount not to exceed Three Hundred Thousand Dollars (\$300,000.00) and to accept and appropriate these funds for the construction and City staff costs associated with the construction of EBMUD water main relocation for the Latham Square Project (No. C464560).

WHEREAS, post commencement of construction AT&T approached the City with the intent to replace their aging subterranean vaults in Broadway during the Latham Square Project; and

WHEREAS, AT&T's work significantly impacted the Project and necessitated the relocation of EBMUD's existing 8-inch and 12-inch diameter mains ("MAIN") in Broadway; and

WHEREAS, the City and AT&T recognize that the most timely, mutually-beneficial and cost-effective way for execution of the PROJECT and reconstruction of the vaults was for the City to require its construction contractor to coordinate with AT&T and EBMUD to modify and install the MAIN as a component of completing the PROJECT, in coordination with and subject to inspection and approval by EBMUD; and

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

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WHEREAS, construction costs associated with AT&T's vault modifications, including construction costs, City professional services costs, City contract administration costs, City inspection costs, City project management costs, and associated change orders, shall be reimbursed by AT&T; now therefore, be it

RESOLVED: That the City Administrator or designee is hereby authorized and directed to take any and all actions necessary to implement the AGREEMENT, including but not limited to: conduct all negotiations, execute any and all agreements, amendments, modifications, change orders, payment requests, procure all requisite permits and to conduct all related actions that may be necessary for the completion of the delivery of the construction of the project in the amount not to exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) for the reimbursement to the City for associated City staff, professional services agreements, and construction costs and appropriate funds without return to Council associated with the construction of AT&T's vault modifications; and be it

FURTHER RESOLVED: That the Council shall appropriate and allocate funds under: Miscellaneous Grants Fund (No. 2999); Capital Project – Transportation Planning and Funding Organization (No. 92260); Structures and Improvements Account (No. 57311); in a Project Number to be determined; and be it

FURTHER RESOLVED: That the contract 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

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MAR 08 2016