

CITY OF OAKLAND

AGENDA REPORT

2010 FEB 18 PM 5:23

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: February 23, 2010

RE: **A Supplemental Report Regarding The Contract Award To McGuire & Hester For The 12th Street Reconstruction Project (Project No. C241610)**

SUMMARY

On February 9, 2010, staff presented a resolution to the Public Works Committee regarding the proposed contract award to McGuire & Hester for the 12th Street Reconstruction Project. The Public Works Committee directed staff to return on February 23, 2010 with a supplemental report addressing questions about the work directly associated with federally participating bid items, analysis of the practicality of unbundling the project, the downsides and upsides of re-bidding the project, the timeline for losing any funding, and alternative options to maximize local employment from the Prime contractor. This report is in response to those questions.

BACKGROUND

This project was initially advertised in 2006; however, the single bid received exceeded the budget (Measure DD) by \$10 million and was subsequently rejected. Between 2007 and 2008, staff searched and applied for additional funding to complement the local funds as intended by the Measure DD program. On September 16, 2008, the City Council authorized the City Administrator to apply for, accept, and appropriate \$13.3 million in Department of Transportation funding under Resolution No. 81529 C.M.S. that included federalizing this contract; thus, facilitating the re-bidding of the project.

KEY ISSUES AND IMPACTS

Practicality of unbundling the project

Federal Highway Bridge Program funding will fund removal of the two existing grade separation structures and construction of the new vehicular bridges and roadway approaches. The Eastern Grade Separation bridge structure is now functionally obsolete, and the Western Grade Separation bridge structure is structurally deficient (both were approved for replacement).

Originally the City considered designing and building all of the Lake Merritt Channel work as one \$66 million project, as this would result in some economies of scale. This included the 7th

Item: _____
Public Works Committee
February 23, 2010

Street, 10th Street, and 12th Street, and Channel Park Projects. Because staff determined the work could effectively be split into separate smaller projects at 12th Street, 10th Street, and 7th Street, staff opted for that route, in effect unbundling the larger project.

When the application was made for Federal funding for the 12th Street project in 2007, staff again reviewed the project to see if the Federal work could be broken out. Staff determined that unbundling the project would be impractical. The work to be funded by Federal, State, and local funds is very closely intertwined. This project will be completed in carefully orchestrated stages. First traffic will be diverted to one side of 12th Street to allow work on the other side, then traffic will be shifted to the opposite side to allow construction in the first area. This will happen at multiple locations. In addition, the interdependency of the bridge work and the proposed channel widening requires detailed construction sequences and schedules in order to maintain tidal flow between Lake Merritt and the Estuary. As each stage is completed, traffic through the site and the streets feeding into the site will be re-arranged.

The demolition, grading, construction of temporary and permanent retaining walls, utility work, and landscaping will all be done in a coordinated fashion, in some cases alternating Federally-funded work with non-Federal work, and in other cases performing both types of work simultaneously. Other factors which suggest keeping the project as whole included geotechnical and subsurface conditions, public transit flow, and utility coordination. Thus, this extensive interconnection of project elements makes unbundling impractical. While unbundling includes the possibility of increased local business participation on the non-federally funded portion of this project, the overall need to coordinate the various work elements make this unfeasible.

Funding impact

The previous process of securing federal environmental approval and the obligation of funds extended for more than two years. Staff has conferred with Caltrans and has been told that the federal funds may be de-obligated if the City elects to re-bid the project without meeting federal requirements justifying re-bidding. The City would also have to undertake the lengthy federal approval process once again. The state funds could also be jeopardized due to the current state deficit, or be reallocated to other projects that are ready to bid. In addition, savings as a result of the current bid climate may disappear if the project is re-bid. Staff have also conferred with the design consultant and been informed that it will take six months and cost approximately \$300,000 to unbundle the project. The expenditure deadlines for the \$13.3 million federal and \$8 million state grants are June 30, 2015 and June 30, 2011, respectively.

On January 19, 2010 the City received a State Bulletin regarding the new Highway Bridge Program prioritization policy, which stated that federal funding will be programmed on a first-come, first-served basis. Currently, \$13.3 million is programmed for this project. In the event that the City is unable to utilize this funding as stipulated, reauthorizing this amount for a stand-alone bridge project will require re-initiating the competitive process.

Item: _____

Public Works Committee
February 23, 2010

Alternative options to maximize local employment from the Prime contractor

An analysis of the project based on the contractor's bid, comparing compliance the City's Local and Small Local Business Enterprise (LBE/SLBE) Program, shows that the contractor's bid meets the City's LBE/SLBE program when local funding is separated from the federally funded and associated bid items. The bid items were grouped into two categories: one for federally funded bridge and associated work; and the other for the remaining work with non-federal funding. The non-federal bid items that are independent of the bridge work and to which local LBE programs can be applied represent about \$13.3 million. The current bid has a \$1.5 million SLBE participation which represents about 11% of that amount. The contractor's bid already has 50% LBE participation.

Impact area hiring

Staff has researched this issue and has been informed by Caltrans that Local Hiring Preferences are not allowed on FHWA funded contracts. Staff will continue researching impact area hiring provisions for future projects and determine what changes in regulations need to be considered to take advantage of this.

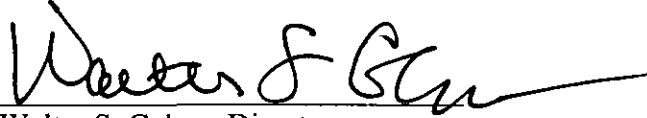
RECOMMENDATION AND RATIONALE

It is recommended that the Council authorize the contract award to McGuire & Hester to minimize the substantial impacts caused by further delays. Other options will place the \$13.3 Million in federal funding in jeopardy. There is no guarantee a future open bid would not result in bids greater than the available local funding (Measure DD).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accepts this supplemental report and authorize the award of this contract to McGuire & Hester.

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:
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CEDA, Department of Engineering and Construction

Prepared by:
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APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:



Office of the City/Agency Administrator

Item: _____
Public Works Committee
February 23, 2010