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OFFICE OF THE CITY CLERK  
OAKLAND

2014 MAY -1 PM 1:33 **AGENDA REPORT**

**TO:** FRED BLACKWELL  
CITY ADMINISTRATOR

**FROM:** Brooke A. Levin  
Interim Director, OPW

**SUBJECT:** 7<sup>th</sup> Street, West Oakland Transit Village

**DATE:** April 4, 2014

City Administrator  
Approval

Date

4/26/14

**COUNCIL DISTRICT: 3**

**RECOMMENDATION**

Staff recommends the City Council adopt a resolution waiving advertising and competitive bidding and authorizing the increase of the change order limit for the contract with Gallagher & Burk, Inc. for construction of 7<sup>th</sup> Street West Oakland Transit Village streetscape (Project No. G313110) from fifteen percent (15%) to twenty percent (20%) of the original contract for a total contract amount not-to-exceed Three Million Eight Hundred Sixty Thousand Nine Hundred Fifty-Four Dollars (\$3,860,954.00).

**OUTCOME**

Approval of the proposed legislation will authorize the City Administrator to execute change orders up to twenty percent (20%) of the original construction contract with Gallagher & Burk, Inc. for 7<sup>th</sup> Street West Oakland Transit Village project for a total contract amount of \$3,860,954.00. The action will allow the project to include additional community supported elements in the most cost effective manner.

**BACKGROUND/LEGISLATIVE HISTORY**

On December 8, 2009, the City Council approved and authorized a construction contract with Gallagher & Burk, Inc. in the amount of Three Million Two Hundred Seventeen Thousand Four Hundred Sixty-Two Dollars (\$3,217,462.00) in accordance with Resolution No. 82426 C.M.S. That contract included authority for up to fifteen percent (15%) in change orders to cover unforeseen conditions. A summary of additional work authorized to date and anticipated, foreseen, and unforeseen work is as follows:

- 1) **Change Order Work to Date (13.68%)**: Additional work totaling \$440,134.00 (13.68%) has been authorized to date and includes work associated with modifications to gateway structure and dancing lights, unforeseen conditions, work associated with

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installation of adjacent West Oakland BART station fencing, coordination with BART Seismic Retrofit project, and modifications to street lighting and traffic signals.

- 2) **Additional Change Order Work (6.32%)**: The original scope of the project when bid did not include installation of plaques for the Blues Walk of Fame, but in response to community request, the City agreed to design, fabricate and install the plaques as change order work contingent on availability of funds. The design, fabrication and installation of 85 Blues Walk of Fame plaques on the sidewalk in front of West Oakland BART Station are estimated to be \$124,000.00, which is 3.85% of the original contract. A contingency allowance of \$79,358.00 (2.47%) is also requested for unforeseen field conditions if needed.

### **ANALYSIS**

The scope of the project at time of award did not include design and installation of Blues Walk of Fame plaques. In response to community requests, the City agreed to install the plaques as change order work under this project. Adoption of the resolutions will allow the use of available funds to successfully complete the 7<sup>th</sup> Street project, including the installation of Blues Walk of Fame plaques.

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 (1) allow staff to implement additional enhancements along with the original work, and (2) maintain continuity and minimize costly delays and disruption to project construction.

### **PUBLIC OUTREACH/INTEREST**

During the conceptual and design phases, the plans were presented to the community for review and comment. Several Bay Area Blues Society members who had played in the clubs along 7<sup>th</sup> Street during the 1940's recommend inclusion of plaques as part of the project to commemorate the contribution of blues musicians to the history of Oakland during the 1940's. However, in order to meet grant fund deadlines, the project was bid and awarded while the design of plaques was still not finalized. The City agreed to finalize design, fabricate and install the plaques as change order work under this project.

**COORDINATION**

Staff has fully coordinated this project with the Bay Area Rapid Transit (BART), Caltrans and Bay Area Blues Society. OPW drafted this Agenda Report and the City Attorney and Budget Office has reviewed it.

**COST SUMMARY/IMPLICATIONS**

Approval of this resolution will authorize the City Administrator to execute change orders up to twenty percent (20%) of the original construction contract with Gallagher & Burk Inc. for a total contract amount not-to-exceed \$3,860,954.00.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

<b>COST ELEMENT</b>	<b>AMOUNT</b>
Contractor's bid price (approved by City Council)	\$3,217,462.00
Change orders to date (13.68%)	\$440,134.00
Additional change order for Walk of Fame and contingency (6.32%)	\$203,358.00
<b>TOTAL CONSTRUCTION COST</b>	<b>\$3,860,954.00</b>

2. COST ELEMENTS OF AGREEMENT/CONTRACT: \$3,217,462.00.

3. SOURCE OF FUNDING:

<b>FUND ARE AVAILABLE IN:</b>	<b>AMOUNT</b>
MTC: Program Grant Fund (2163); Engineering Design: Street & Structures Organization (92242); Street Construction Account (57411); Project G313110	\$159,490.00
West Oakland Projects (5660); Engineering Design: Street & Structures Organization (92242); Street Construction Account (57411); Project G313130	\$43,868.00
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$203,358.00</b>

4. FISCAL IMPACT:

Approval of this resolution will authorize the City Administrator to execute change orders up to twenty percent (20%) of the original construction contract amount with Gallagher and Burk, Inc. for the 7<sup>th</sup> Street, West Oakland Transit Village project for a total contract amount not-to-exceed \$3,860,954.00.

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### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This proposed work will enhance the area in front of West Oakland BART Station and help in attract more businesses on 7<sup>th</sup> Street and the surrounding area.

**Environmental:** The contractor will be required to make every effort to reuse clean recyclable concrete product. Best Management Practices for the protection of storm water runoff during construction will be required.

**Social Equity:** Installation of Walk of Fame plaques will also commemorate Blues musician that used to play in clubs on 7<sup>th</sup> Street in 30s and 40s.

### **CEQA**

This project is funded by federal funds, the National Environmental Policy Act (NEPA) requirements apply in lieu of CEQA. The project has been determined by Caltrans to have no significant effect on the human environment and, therefore, neither an environmental assessment nor an environmental impact statement was required. A Negative Declaration for NEPA was approved by Caltrans on May August 20, 2008.

For questions regarding this report, please contact Gus Amirzehni, Engineering Design and Right-of-Way Manager, 510-238-6601.

Respectfully submitted,

*fw*   
BROOKE A. LEVIN  
Interim Director, Oakland Public Works

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

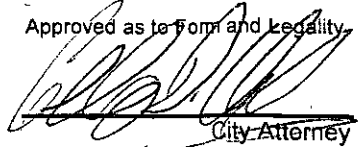
Reviewed by:  
Gus Amirzehni, P.E., Division Manager  
Engineering Design and R.O.W.

Prepared by:  
Jaime Heredia, P.E., Supervising Civil Engineer  
Engineering Design and R.O.W. Management Division

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OAKLAND

Approved as to Form and Legality



City Attorney

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# OAKLAND CITY COUNCIL

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 GALLAGHER & BURK, INC. FOR CONSTRUCTION OF 7<sup>TH</sup> STREET WEST OAKLAND TRANSIT VILLAGE STREETScape (PROJECT NO. G313110) FROM FIFTEEN PERCENT (15%) TO TWENTY PERCENT (20%) OF THE ORIGINAL CONTRACT FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED THREE MILLION EIGHT HUNDRED SIXTY THOUSAND NINE HUNDRED FIFTY-FOUR DOLLARS (\$3,860,954.00)**

**WHEREAS**, the City of Oakland was awarded federal funds for 7<sup>th</sup> Street, West Oakland Transit Village (Project No. G313110); and

**WHEREAS**, a contract for construction of the project was awarded to Gallagher & Burks, Inc. on December 8, 2009 in the amount of Three Million Two Hundred Seventeen Thousand Four Hundred Sixty-Two Dollars (\$3,217,462.00) and executed in accordance with Resolution No. 82426 C.M.S.; and

**WHEREAS**, construction is currently underway by Gallagher & Burk, Inc.; and

**WHEREAS**, due to many unforeseen and changed field conditions, including fabrication and installation of Blues Walk of Fame plaques and settling Contractor's claim, 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**, sufficient funding is available in the project budget to cover the original contract amount and to increase the change order limit in the following accounts:

- MTC: Program Grant Fund (2163); Engineering Design: Street & Structures Organization (92242); Street Construction Account (57411); Project G313110 in the amount of (\$159,490.00)
- West Oakland Projects Fund (5660); Engineering Design: Street & Structures Organization (92242); Street Construction Account (57411); Project G313130 in the amount of (\$43,868.00)

**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 I.5, 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 Gallagher & Burk Inc. for construction of 7<sup>th</sup> Street, West Oakland Transit Village (Project No. G313110) from fifteen percent (15%) to twenty percent (20%) of the original contract amount, because it is vital to the project to do so in order to: (1) allow staff to implement additional enhancements along with the original work, and (2) maintain continuity and minimize costly delays and disruption of ongoing project construction and completion; and be it

**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, or his/her designee, are hereby approved; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator, or his designee, to increase the change order limit for the contract with Gallagher & Burk Inc. for construction of 7<sup>th</sup> Street, West Oakland Transit Village (Project No. G313110) from fifteen percent (15%) to twenty percent (20%) of the original contract amount for a total contract amount not to exceed Three Million Eight Hundred Sixty Thousand Nine Hundred Fifty-Four Dollars (\$3,860,954.00).

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_.

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and  
PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California