



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2018 NOV 20 PM 12:40

## AGENDA REPORT

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

**FROM:** Jason Mitchell  
Director, Public Works

**SUBJECT:** Rainbow Recreation Center –  
Construction Contract Change Order  
Increase

**DATE:** November 9, 2018

City Administrator Approval

Date:

11/20/18

### RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Waiving Advertising And Competitive Bidding And Authorizing The City Administrator, Or Designee, To Increase The Construction Contract Change Order Amount For The Rainbow Recreation Center Renovation And Expansion Project (Project No. 1000854) With JUV, Inc., From Ten Percent (10%) To Fifteen Percent (15%) Of The Original Contract Amount Of Ten Million One Hundred Fifty Thousand (\$10,150,000) For A Total Contract Amount Not-To-Exceed Eleven Million Six Hundred Seventy-Two Thousand Five Hundred Dollars (\$11,672,500.00).**

### EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator or her Designee to increase and execute change orders from ten percent (10%) to fifteen percent (15%) of the original construction contract with JUV, Inc for construction of the Rainbow Recreation Center for a total contract amount not-to-exceed \$11,672,500. The action will allow the project to expand the existing contract with JUV, Inc. for change orders to incorporate and expedite additional work. Funding necessary for additional change order spending authority of \$507,500 will be added to the construction contract through reallocation of the existing project budget, as well as project cost savings, outside the construction contract.

### BACKGROUND / LEGISLATIVE HISTORY

Rainbow Recreation Center is located in the Seminary District of Oakland, at International Boulevard and Seminary Avenue, along the busy industrial corridor. The project is in Council District 6 as shown in **Attachment A**. The project was initiated under the approved Fiscal Year (FY) 2011-13 Park Project Prioritization list (Resolution No. 83725 C.M.S.) and is funded by multiple State park grants and bond measures, such as Measure KK – Affordable Housing &

Item: \_\_\_\_\_  
Public Works Committee  
December 4, 2018

Infrastructure Bond, and Measure WW – Regional Open Space, Wildlife, Shoreline and Park Bond.

This project demolishes the existing center, except the gymnasium, and rebuilds an expanded recreation center, adding approximately 3,800 square feet of building space for a total of 13,000+ square feet. The expanded new facility will accommodate multiple user groups in an underserved community by addressing deficiencies within the building systems, kitchen and restroom/shower facilities; converting an unused tennis court into a soccer/flag football practice field; and improving landscape, picnic, lighting and other site amenities.

In March 2018, the City issued a Notice to Proceed to JUV, Inc., a local general contractor, for the Rainbow Recreation Center (RRC) Improvement Project, in the amount of \$10,150,000 under Resolution No. 87069 C.M.S., allowing a 10 percent change order limit of \$1,015,000 as specified by the approved contract documents. Construction must be completed and the facility opened to the public by Spring 2019 to meet grant fund requirements.

### **ANALYSIS AND POLICY ALTERNATIVES**

#### *Construction Contract Change Order Limit Increase:*

Since the construction began, multiple factors and conditions have arisen that resulted in the utilization of the project contingency budget. In order to meet the extremely tight construction schedule, the contractor has been authorized to expedite the procurement of materials. The project also encountered unforeseen conditions related to both the site and building, including unknown asbestos piping discovered in multiple locations, hidden dry-rot conditions in the existing gym, old heating and ventilation unit that needs to be replaced to expand life cycle use matching the new building, PG&E engineering delays on utility layout, and new sprinkler systems in the existing gym due to code change requirements. These additional conditions required expedited but judicious upgrades to the scope of work and have resulted in the utilization of the project contingency budget.

Staff is recommending reallocation of the following existing project budget line items into the construction contract to fund \$507,500 necessary to perform additional work through change orders:

- **Public Art:** The recent changes to State law require public art coordination and on-site installation work to be added to the general contractor's scope of work. As a result, the remaining budget authority of \$43,500 will be reallocated to the construction contract.
- **Utility:** The City has an option for electric utility work to be done by either the City contractor or by PG&E. Upon discussions with PG&E, the City has decided that the contractor should perform the work to allow more control over the schedule. Because the City contractor can complete the work sooner than the timeline provided by PG&E, the existing budget authority of \$250,000 for this work will be reallocated to the construction contract.

- Refund from EBMUD: The project has received a refund from East Bay Municipal Utility District (EBMUD) in the amount of \$173,740 for cost savings associated with closing of two water meters for the property. This fund will be reallocated to the construction contract to increase change order capacity.
- Permit/Material Testing/Inspection: At the beginning of the project, costs for permit/material testing/inspection were estimated. Upon construction initiation, consultant proposals have been confirmed and a release of \$40,260 is reallocated to the construction contract to increase change order capacity.

The construction of the project is moving forward quickly and is at approximately 80 percent completion. Without the increased contract change order capacity, the necessary scope changes and modifications cannot be executed under the current contract. The approval of the change order increase will allow the additional work to be incorporated to maintain the overall completion and occupancy date for the facility. Funding for the additional work is currently available from existing allocated sources.

#### *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 2.04.505 1.5 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 interest of the City to do so.

Staff recommends that it is in the best interest of the City to waive advertising and competitive bidding and to approve the proposed change order limit increase, in order to minimize costly delays or disruptions and meet the required completion schedule by continuing the construction that is currently underway with JUV, Inc.

#### **FISCAL IMPACT**

Staff is requesting approval to increase the construction contract change order limit from 10 percent, equivalent to \$1,015,000, to 15 percent, \$1,522,500, an increase of \$507,500 in change order spending authority. The overall construction contract with this proposed change will be \$11,672,500. Additional funding necessary to increase change order capacity has been identified within the existing project funds and cost saving refunds. The Project is fully funded by the following sources:

- Measure WW East Bay Regional Park Bond
- Measure KK Affordable Housing & Infrastructure Bond
- State Parks Grant
- State Youth Soccer Grant
- Housing Related Parks Program

<b>Contract Summary:</b>	
A. Base contract issued	\$10,150,000.00
B. Initial change order limit amount (10%)	\$1,015,000.00
C. Requested increase in change order limit amount (15%)	\$1,522,500.00
Revised Maximum Not-to-Exceed Contract Amount (A + C)	\$11,672,500.00

Existing fund sources allocated for construction contract award and 10 percent change order limit are:

<b>Fund Source</b>	<b>Amount</b>
State Parks & Recreation Grant Fund (2134); Capital Project Organization (92270); Structures and Improvements Account (57311) Rainbow Recreation Center Project (No. 1000854); Award 22011	\$4,063,754.00
State Housing Related Parks Program Fund (2144); Capital Project Organization (92270); Structures and Improvements Account (57211) Rainbow Recreation Center Project (No. 1000854); Award 23321	\$928,550.00
City of Oakland Infrastructure Bond (5330); Capital Project Organization (92270); Structures and Improvements Account (57311); Rainbow Recreation Center Project (No. 1000854); Award (23253)	\$4,058,181.00
Measure WW East Bay Regional Park Bond (2260); Capital Project Organization (92270); Structures and Improvements Account (57112); Rainbow Recreation Center Project (No. 1000854); Award (21044)	\$2,114,515.00
<b>Total Funds allocated:</b>	<b>\$11,165,000.00</b>
<b>Proposed Maximum Not-to-Exceed Contract Amount</b>	<b>\$11,672,500.00</b>
<b>Potential Fund Re-Allocation Difference/Requirement</b>	<b>\$507,500.00</b>

<b>Fund Source Available For Additional Change Orders, if needed:</b>	<b>Amount</b>
State Parks & Recreation Grant Fund (2134); Capital Project Organization (92270); Structures and Improvements Account (57311) Rainbow Recreation Center Project (No. 1000854); Award 22011	\$174,740.00
City of Oakland Infrastructure Bond (5330); Capital Project Organization (92270); Structures and Improvements Account (57311 and 57312); Rainbow Recreation Center Project (No. 1000854); Award (23253)	\$332,760.00
<b>Total Amount Available for Additional Change Orders:</b>	<b>\$507,500.00</b>

### **PUBLIC OUTREACH / INTEREST**

A series of five (5) meetings with the community, focus groups and Neighborhood Crime Prevention Council were conducted in 2011 to develop the concept plan that was submitted for Round 2 of the Proposition 84 grant application. The meetings identified and prioritized the community's need for activities, adjacencies, safety and beautification.

Upon grant award, an additional six (6) meetings with community and focus groups were conducted in 2015 – 2017 to fine-tune the design and discuss architectural style, colors and materials. The Rainbow Recreation Center project was endorsed by the Park and Recreation Advisory Committee in October 2016 and approved by the Planning Commission in May 2017. The project was noticed to adjacent properties through the City's Planning and Zoning Approval process for a Conditional Use Permit and Regular Design Review.

### **COORDINATION**

The project has been coordinated within Oakland Public Works, Oakland Parks, Recreation & Youth Development, and Contracts & Compliance Division of the City Administrator's Office. This report has been reviewed and approved by Office of the City Attorney and Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This project replaces damaged and aged City infrastructure. The contractor is 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 construction services provided by local firms will result in dollars being spent locally. In addition, upon completion, the recreation center will be a value-added asset to the City that could generate additional revenues for the City and local businesses.

**Environmental:** The contractor is required to comply with the City's Waste Recycling and Re-use Plan (WRRP). The new facility will be energy efficient, achieving Leadership in Energy and Environmental Design (LEED) Silver rating and with water conserving irrigation and plumbing fixtures and native planting. The project design incorporated strategies to maximize natural lighting and cross ventilation for the facility.

**Social Equity:** The facility is the only recreation center serving East Oakland in the Seminary, Lockwood Garden, Melrose and other neighborhoods along International Boulevard. The expanded facility will offer new programming opportunities in a new, updated facility to better serve the community that is ethnically diverse, economically challenged, and has a large youth population. The expanded facility will be compliant with the Americans with Disabilities Act (ADA), providing improved access to staff and patrons such as seniors and those with mobility impairment.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council adopt a resolution waiving advertising and competitive bidding and authorizing the City Administrator, or designee, to increase the construction contract change order amount for the Rainbow Recreation Center Renovation and Expansion Project (Project No. 1000854) with JUV, Inc., from 10 percent to 15 percent of the original contract for a total contract amount not-to-exceed \$11,672,500, utilizing existing available project funds.

For questions regarding this report, please contact Denise Louie, C.I.P. Coordinator at (510) 238-3682.

Respectfully submitted,

  
JASON MITCHELL  
Director, Oakland Public Works

Reviewed by:  
Danny Lau, P.E., Assistant Director  
Bureau of Design & Construction

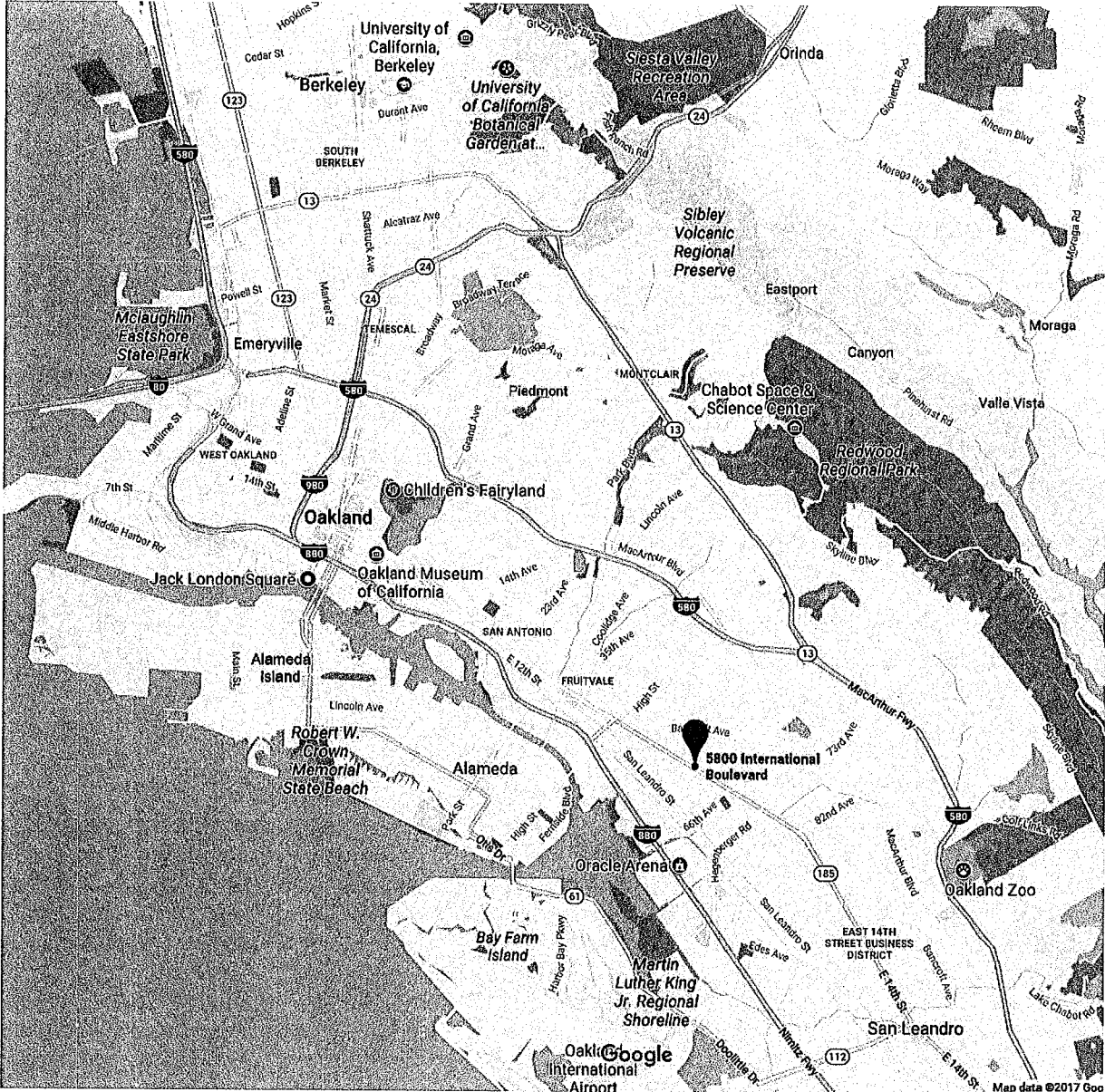
Reviewed by:  
Lily Soo Hoo, Supervisor  
Project Delivery Division, Project & Grant  
Management

Prepared by:  
Denise Louie, CIP Coordinator  
Project Delivery Division

Attachments (1):  
A: Project Location Map

Item: \_\_\_\_\_  
Public Works Committee  
December 4, 2018

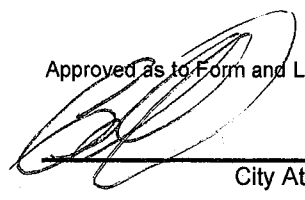
ATTACHMENT A: LOCATION MAP



**Rainbow Recreation Center**  
**5800 International Boulevard**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2010 NOV 20 PM 12:40

Approved as to Form and Legality

  
City Attorney

# OAKLAND CITY COUNCIL

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

**RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO INCREASE THE CONSTRUCTION CONTRACT CHANGE ORDER AMOUNT FOR THE RAINBOW RECREATION CENTER RENOVATION AND EXPANSION PROJECT (PROJECT NO. 1000854) WITH JUV, INC., FROM TEN PERCENT (10%) TO FIFTEEN PERCENT (15%) OF THE ORIGINAL CONTRACT AMOUNT OF TEN MILLION ONE HUNDRED FIFTY THOUSAND (\$10,150,000) FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED ELEVEN MILLION SIX HUNDRED SEVENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$11,672,500.00)**

**WHEREAS**, the Rainbow Recreation Center was identified as a priority project in the FY11-13 Park Project Prioritization list approved by Council under Resolution No. 83725 C.M.S. in February 2012; and

**WHEREAS**, on May 17, 2011 the City Council approved Rainbow Recreation Center project as one of six projects to apply for Round 2 of the Proposition 84, the Clean Water, Parks and Coastal Protection Act competitive grant in Resolution No. 83367 C.M.S.; and

**WHEREAS**, in October 2013 the City was awarded and entered into an agreement with the State of California Department of Parks & Recreation receiving Proposition 84 grant funds for the project; and

**WHEREAS**, on March 1, 2016 the City Council approved Resolution No. 86028 C.M.S. allowing staff to apply for, accept and appropriate grant funds from the California Department of Housing and Community Development for the 2015 Housing Related Parks Program (HRPP) for the Rainbow Recreation Center; and

**WHEREAS**, on October 4, 2016 the City Council approved Rainbow Recreation Center as one of two projects to apply for the Proposition 40 California Youth Soccer and Recreation Development Program in Resolution No. 86407 C.M.S.; and

**WHEREAS**, in November 2016 the Measure KK General Obligation Bond was approved by the voters of Oakland to fund \$600 million of vital infrastructure improvements and anti-displacement and affordable housing projects; and



**WHEREAS**, on June 19, 2017 the City Council approved Rainbow Recreation Center in the list of projects commencing with the first Measure KK bond issuance in Resolution No. 86779 C.M.S.; and

**WHEREAS**, in February 2017 the City entered into Agreement with the State of California Department of Housing and Community Development receiving grant funds for the project; and

**WHEREAS**, in October 2017 the City entered into an Agreement with the State of California Department of Parks & Recreation receiving Youth Soccer grant funds for the project; and

**WHEREAS**, on September 1, 2017 the City advertised the Rainbow Recreation Center Renovation & Expansion Project No. 1000854 for bid and 2 bids were received in the amounts of \$10,795,000 and \$11, 282,000 by the City Clerk on September 28, 2017; and

**WHEREAS**, on November 28, 2017, the City Council approved Resolution No. 86975 C.M.S. to reject all bids, waive further competitive bidding, and authorized negotiation of a construction contract in the open market for an amount not-to-exceed \$8,700,000.00 to meet original project scope; and

**WHEREAS**, in December, 2017, staff conducted a limited bid inviting three interested firms to submit a bid for the project; and

**WHEREAS**, in February 2018, City Council approved Resolution No. 87069 C.M.S. to: a) increase the construction contract amount to \$10,150,000 to JUV, Inc and b) reallocate total additional funds of \$2,165,000 for the project from Measure WW; and

**WHEREAS**, various change orders, including unforeseen and changed field conditions, new work to replace aged equipment or areas not included in the original scope, and planned changed orders such as the public art installation or utility work that could not be fully defined during design, are required to be completed in the project; and

**WHEREAS**, existing funds approved and appropriated for the construction are available in the Rainbow Recreation Center Renovation/Expansion Project No. 1000854 from various sources totaling \$11,165,000:

- Measure WW East Bay Regional Park Bond Fund 2260 (Award No. 21044)
- Measure KK Affordable Housing & Infrastructure Bond Fund 5330 (Award No. 23253)
- State Parks Grant Fund 2134 (Award No. 22011)
- State Youth Soccer Grant Fund 2134 (Award No. 23439)
- Housing Related Parks Program Fund 2144 (Award Nos. 23321 and 23163); and

**WHEREAS**, OMC Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements 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; and

**WHEREAS**, advertising and competitive re-bidding will delay the on-going construction project and to maintain continuity and minimize costly delays;

**WHEREAS**, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance; and

**WHEREAS**, the City Council finds and determines that the performance of this contract 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 per OMC Section 2.04.050.I.5 in order to meet the grant schedule; and be it

**FURTHER RESOLVED:** That the City Council approves and authorizes the City Administrator, or Designee, to increase the construction contract change order amount for the Rainbow Recreation Center Renovation and Expansion Project (Project No. 1000854) with JUV, Inc., from 10% to 15% of the original contract for a total contract amount not to exceed eleven million six hundred seventy-two thousand five hundred dollars (\$11,672,500.00), utilizing existing project funds available in the following sources as needed:

- Measure KK Affordable Housing & Infrastructure Bond Fund 5330 (Award No. 23253) up to \$333,500.00
- State Parks Grant Fund 2134 (Award No. 22011) up to \$174,000.00; and be it

**FURTHER RESOLVED:** That the City Administrator, or Designee, is authorized to execute any amendments or modifications of the contract within the limitations of the project specifications.

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

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

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