

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION TO INCREASE THE CHANGE ORDER LIMIT FOR THE CONTRACT WITH MCGUIRE AND HESTER, INC. FOR PROJECT 1006337 CITYWIDE PAVEMENT REHABILITATION FROM TWENTY-FIVE PERCENT (25%) TO TWENTY-SEVEN AND A HALF PERCENT (27.5%) OF THE ORIGINAL CONTRACT, FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED NINETEEN MILLION, TWO HUNDRED, THIRTY-TWO THOUSAND FOUR HUNDRED EIGHTEEN DOLLARS AND SEVENTY-FIVE CENTS \$19,232,418.75 AND WAIVING THE COMPETITIVE PROCESS TO THE EXTENT NECESSARY**

**WHEREAS**, the City Council, through Resolution No. [88976](#) C.M.S., authorized the City Administrator to award a construction contract to McGuire and Hester, Inc. in the amount of Fifteen Million Eighty-Four Thousand Two Hundred Fifty Dollars (\$15,084,250.00) for the Citywide Pavement Rehabilitation Project (Project No. 1006337); and

**WHEREAS**, the executed construction contract provides a standard change order authority of up to twenty-five percent (25%) of the original contract amount (\$3,771,062.50), allowing for necessary modifications due to unforeseen site conditions or adjustments to the project scope; and

**WHEREAS**, the project is part of the City of Oakland's 2022 Five-Year Paving Plan, with the goal of rehabilitating deteriorated streets across multiple Oakland neighborhoods to improve pavement condition, accessibility, and safety; and

**WHEREAS**, the project scope includes asphalt milling and overlay with base repair, subgrade treatment, sidewalk replacement and infill, curb and gutter work, ADA-compliant curb ramps, and installation of pavement markings and signage; and

**WHEREAS**, during construction, several unforeseen field conditions arose, including unstable subgrade at Sheffield Avenue, expanded sidewalk construction at Raimondi Park, and removal of unrecorded double railroad tracks, resulting in additional work beyond the original 25% change order capacity; and

**WHEREAS**, these unforeseen conditions resulted in an additional cost of approximately One Million Two Hundred Forty-Six Thousand Ninety-One Dollars and Eighty-Two Cents (\$1,246,091.82), exceeding the current change order limit by approximately 2.5 percent (\$377,106.25); and

**WHEREAS** funding for the proposed 2.5 percent increase is available within existing project allocations in Fund 2218 (Measure BB), and no additional appropriation is required; and

**WHEREAS** the City Council finds and determines that the additional change order capacity is necessary to complete the project, properly authorize completed work, and close out the contract in a timely and cost-effective manner; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 2.04.050.I, the City Council may waive further advertising and competitive bidding when, among other things, calling for bids on a competitive basis would be impractical or unavailing; and

**WHEREAS**, the City Council finds that it is in the best interests of the City to not conduct a separate competitive bidding process for the additional work described above, because these items were unforeseen, are necessary for project completion, and engaging a new contractor for a small remainder of work would cause delay and increased cost to the City; now, therefore, be it

**RESOLVED:** That all the preceding findings and determinations are hereby incorporated by reference and adopted herein by the Council; and now, therefore, be it

**FURTHER RESOLVED:** That the City Council hereby authorizes an increase to the change order limit for the contract with McGuire and Hester, Inc. for the Citywide Pavement Rehabilitation (Project No. 1006337) from twenty-five percent (25%) to twenty-seven and one-half percent (27.5%) of the original contract amount, for a total contract amount not-to-exceed Nineteen Million Two Hundred Thirty Two Thousand Four Hundred Eighteen Dollars and Seventy Five Cents (\$19,232,418.75); and be it

**FURTHER RESOLVED:** Pursuant to Oakland Municipal Code Section 2.04.050.I, the City Council finds that it is in the best interests of the City to not conduct a separate competitive

bidding process for the additional work described above, because these items were unforeseen, are necessary for project completion, and engaging a new contractor for a small remainder of work would cause delay and increased cost to the City; and be it

**FURTHER RESOLVED:** This action is exempt from review under the California Environmental Quality Act (CEQA). The project consists of rehabilitating existing streets and related infrastructure, with no expansion of use or capacity. As such, it qualifies for the Class 1 Categorical Exemption for minor alterations of existing public facilities, including public highways, sidewalks, and similar infrastructure (CEQA Guidelines §15301(c)). This determination is consistent with the environmental findings adopted by the Council as part of the 2022 Five-Year Paving Plan. The City's adoption of the 2022 Five-Year Paving Plan (Resolution No. 88975 C.M.S.) included CEQA exemption findings for the planned resurfacing projects, and the scope of work of Project No. 1006337 was included in that program. Those findings remain valid and applicable. Accordingly, no additional CEQA review is required to approve the increase to the contract change order limit necessary to complete this project; and be it

**FURTHER RESOLVED:** That the contract amendment 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,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND  
PRESIDENT JENKINS

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_ ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California