



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT:** SNI WA 03: ALMA STORM  
DRAIN IMPROVEMENT PROJECT

**DATE:** 01-17-07

Approved

*Deana Fatna*

Date

*1/23/07*

**COUNCIL DISTRICT:** 3

**SNI AREA:** Washington

## RECOMMENDATION

- a. Increase the contingency budget for the SNI WA 03: Alma Storm Drain Improvement Project by \$40,000 from \$120,000 to \$160,000.
- b. Approval of Contract Change Order No. 6 with Stoloski and Gonzalez, Inc., for the SNI WA 03: Alma Storm Drain Improvement Project in the amount of \$46,788.97 for a total contract amount of \$1,278,494.51 and an extension of fifteen (15) working days for a total of 105 working days.

## OUTCOME

Increasing the contingency budget for the SNI WA 03: Alma Storm Drain Improvement project by \$40,000 will allow for the execution of a sixth and final contract change order with Stoloski and Gonzalez, Inc. Approval of Contract Change Order No. 6 with Stoloski and Gonzalez, Inc. will enable the SNI WA 03: Alma Storm Drain Improvement Project to be completed and accepted.

## BACKGROUND

The SNI WA03 Alma Storm Drain Improvement Project is located along Sanborn Avenue between Alma and Bellevue Avenues (map attached). The project scope includes a new storm drain system, 2,500 lineal feet of new curb and gutter, roadway pavement rehabilitation and 14 new wheelchair ramps. The new storm drain infrastructure and street improvements will provide for improved drainage in the neighborhood.

On November 15, 2005, Council awarded the construction contract to Stoloski and Gonzalez, Inc. in the amount of \$1,118,658.20 and approved a contingency in the amount of \$120,000. To date, a total of five contract change orders have been executed in the total amount of \$113,047.34, and 15 working days have been added to the original contract. The unexpended

contingency balance for the project is \$6,952.66. A sixth and final change order in the amount of \$46,788.97 and an additional 15 working days are needed to complete the project.

### **ANALYSIS**

Contract Change Order (CCO) No. 6 is intended to fully compensate the contractor for delay costs related to the discovery of ancient human remains during construction operations, and for the resulting schedule and scope changes initiated by the City.

On June 13, 2006, the first of three sets of Native American human remains was uncovered during the installation of the storm sewer main on Sanborn Avenue. Work was immediately suspended to allow for law enforcement investigation and for archaeological review and excavation as required per Section 7-1.27 of the City's Standard Specifications. During this time, the contractor's construction crew and equipment were put on standby to allow the City time to examine the site and make the necessary provisions for the proper investigation, handling and removal of the ancient remains. Work resumed on June 26, 2006. Soon thereafter, two additional sets of Native American remains were discovered along the same construction trench alignment. Work was suspended once again to allow for the proper investigation, handling and removal of the remains.

Upon discovery of the third set of remains, staff evaluated the potential impacts of continuing trenching operations and decided to alter the original scope of the project to eliminate further disruption to the archaeologically sensitive site. Taking into account the sensitive archaeological concerns, inconvenience to the neighborhood and negligible drainage impacts, staff concluded that it would be in the best interests of the community and the City to reduce the scope of trenching operations rather than risk further disturbance of the site, project delays and incur additional costs if more remains were found. The contractor was then directed to complete only the non-trenching portion of the project for the remainder of the contract.

Work was substantially completed on September 1, 2006, after which the contractor submitted a claim in the amount of \$70,044.81 for the "archaeological-related" delay. Section 7-1.27 of the Standard Specifications, entitled "Archaeological and Paleontological Rights," limits a contractor's right to recover compensation of "archaeological-related" delay to expenses for idle time of equipment and necessary payments for idle time of labor, to the cost of extra moving of equipments and to the cost of longer hauls. Based on this provision, staff negotiated the claim amount down to \$46,788.97. The contractor has agreed to this amount. Accounting for the contingency balance of \$6,952.66, an additional \$40,000 will be needed to satisfy the claim. Therefore, staff recommends approval of CCO No. 6 and additional contingency funding in the amount of \$40,000.

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this action does not meet the \$1 million threshold for Criteria 1, this memorandum will be posted on the City’s website for the February 6, 2007 Council agenda. This project was listed on the City’s Internet Bid Line and advertised in the *San José Mercury News* and *San José Post Record*. Bid packages for all public works construction projects are routinely provided to various contractor organizations and builder’s exchanges.

**COORDINATION**

This project has been coordinated with the City Attorney's Office and the Departments of Finance, Transportation and Planning, Building and Code Enforcement.

In addition, this project was closely coordinated with the City Manager’s Budget Office, the San José Redevelopment Agency, and the Strong Neighborhoods’ Washington Area Community Coalition.

**FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-Approved Budget Strategy for Economic Recovery, as it will spur construction spending in the local economy.

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: \$46,788.97

2. COST ELEMENTS OF PROJECT:

Project Delivery	\$345,000.00
Construction	1,118,658.20
Previous Contract Change Orders (Nos. 1 to 5)	113,047.34
Contract Change Order No. 6	46,788.97
<b>TOTAL PROJECT COSTS</b>	<b>\$1,623,494.51</b>
Prior Year Expenditures	855,739.30
<b>Remaining Project Costs</b>	<b>\$767,755.21</b>

3. SOURCE OF FUNDING: 413 - Storm Drainage Fee Fund  
 441 - Community Development Block Grant Fund  
 450 - Services for Redevelopment Capital Projects Fund  
 469 - Storm Sewer Capital Fund
4. OPERATING COSTS: The proposed operating and maintenance costs of this project have been reviewed, and staff has determined that the project will have no significant adverse impact on the General Fund operating budget.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for CCO # 6	2006-2007 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs*</b>				<b>\$767,755</b>			
<b>Current Funding Available</b>							
413	5045	Alma Storm Drain	139425	\$0	\$0	Capital V-103	N/A
441	5213	Washington/Alma Strong Neighborhood Storm Drain/Street Improvements	137385	\$0	\$0	Operating XI-17	N/A
450	4959	Alma Neighborhood Storm Drain Improvements	137385	\$0	\$0	Capital V-101	N/A
469	4483	Minor Neighborhood Storm Drain Improvement	146365	\$650,000	\$46,788.97	Capital V-111	N/A
469	5045	Alma Storm Drain Improvement	137385	\$196,000	\$0	Capital V-103	10/17/06 Ord. No. 27888
450	5256	SNI WA03: Alma Storm Drain Improvement	139425	\$0	\$0	Capital V-101	N/A
413	4272	Miscellaneous Projects	137385	\$228,000	\$0	Capital V-112	10/17/06 Ord. No. 27888
<b>Total Current Funding Available*</b>				<b>\$1,074,000</b>	<b>\$46,788.97</b>		

\* The \$1,118,658.20 construction contract was already encumbered last fiscal year, 2005-2006 for the "Alma Storm Drain Improvement" project.

HONORABLE MAYOR AND CITY COUNCIL

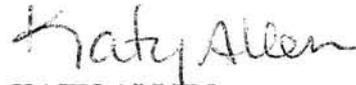
01-17-07

**Subject: SNI WA 03: Alma Storm Drain Improvement Project, CCO #6**

Page 5

**CEQA**

CEQA: Exempt, Resolution No. PP05-129; dated August 05, 2005.  
Categorical Exclusion, File No. G71

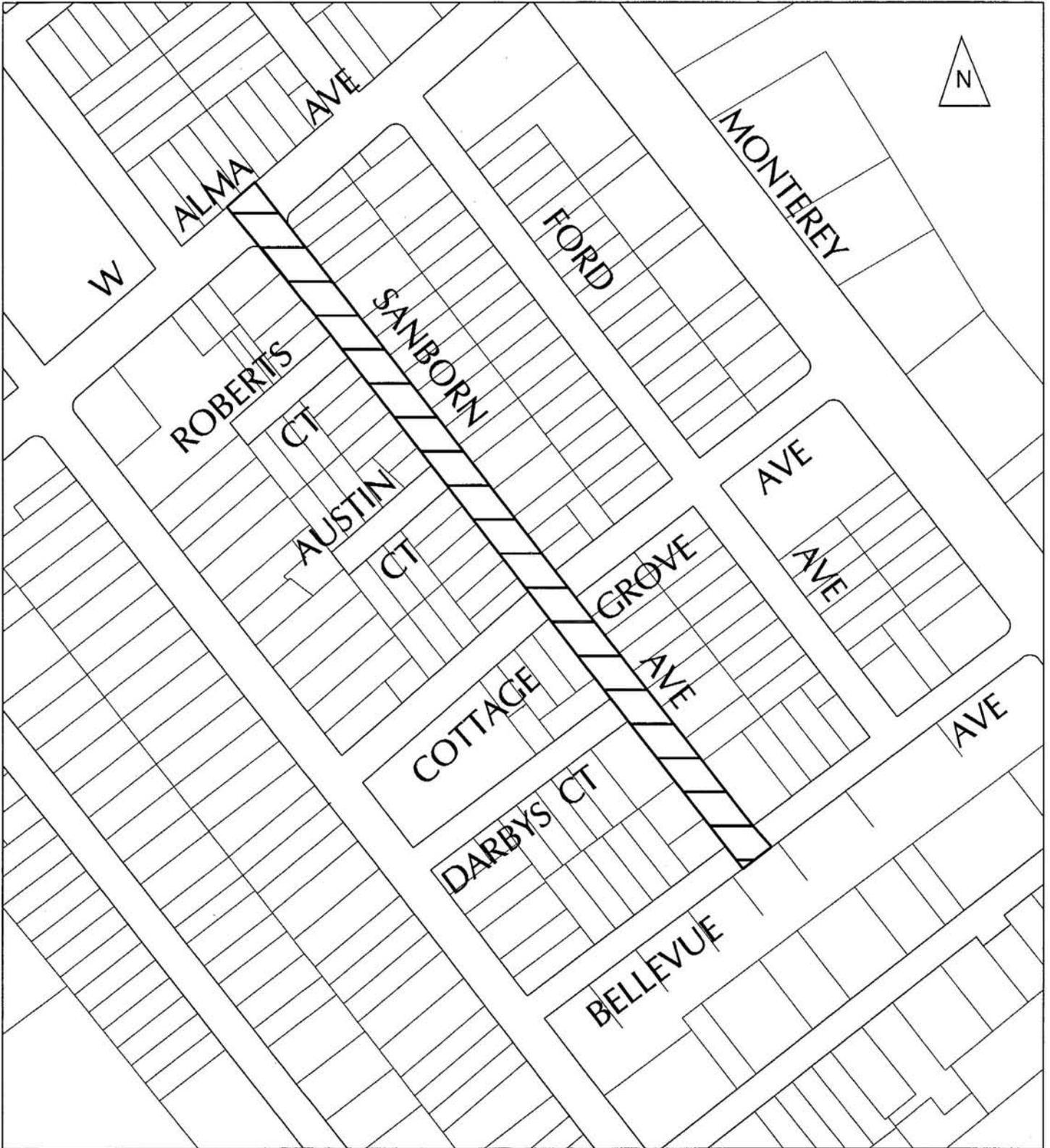


KATY ALLEN

Director, Public Works Department

For questions, please contact TIMM BORDEN, DEPUTY DIRECTOR, at 408-535-8300.

CM:JN:hla  
jn121906AlmaCCO6  
Attachment



**SNi WA03: ALMA STORM DRAIN IMPROVEMENT PROJECT**  
**LOCATION MAP**  
NOT TO SCALE