



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

**SUBJECT: HIGHWAY 87 DETOUR II
SANITARY SEWER
RECONSTRUCTION PHASE II PROJECT**

DATE: 03-24-08

Approved

Date

3-26-08

COUNCIL DISTRICT: 3

RECOMMENDATION

- a) Increase the contingency budget for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II project by \$215,700 from \$740,900 to \$956,600.
- b) Approval of Contract Change Order (CCO) No.5 with McGuire & Hester, Inc. for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project in an amount not-to-exceed \$800,000, for a total contract amount of \$5,895,746.

OUTCOME

CCO No. 5 is required in order to allow the contractor to demobilize from the project site and to terminate the contract in accordance with the terms and conditions set forth in the settlement agreement entered into between the City and McGuire & Hester in February 2008.

BACKGROUND

In 1998, the California Department of Transportation (Caltrans), in cooperation with the City, began to upgrade Highway 87 to a six-lane freeway between Julian Street and Highway 101. Due to potential structural and maintenance impacts on the City's sewer crossing beneath the freeway, Caltrans agreed to fund the relocation of the sewer. The sewer reconstruction project was to be completed in two phases under two separate utility agreements executed between the City and Caltrans.

The Phase I project was completed in 2001, which included the rehabilitation of a portion of the sewer system by installing a flexible internal pipe lining and protection of a junction structure to prevent leakage. The Phase II project included construction of the twin 42-inch diameter sewer siphons tunneled under the Guadalupe River and Highway 87. Phase II of the project was to be designed and constructed by the City with Caltrans reimbursing the City for total project costs in the amount of \$6,993,000.

On March 29, 2005, Council awarded the Phase II construction contract to McGuire & Hester in the amount of \$4,939,146, with a 15% contingency in the amount of \$740,900.

Phase II construction began in June 2005 and active tunneling operations started in November 2005. On the third day of tunneling, the contractor's operations were halted when groundwater overwhelmed the dewatering system and flooded the jacking pit. Remedial efforts to eliminate the influx of groundwater were successful, however, the contractor was unable to advance the Microtunneling Boring Machine (MTBM). The MTBM appeared to be stuck under the east bank of Guadalupe River.

In July 2006, McGuire & Hester filed a lawsuit against the City, claiming the soils and groundwater conditions they encountered differed from the conditions represented in the contract documents.

In September 2007, McGuire & Hester and their subcontractor successfully removed the MTBM from beneath the river channel.

In January 2008, McGuire & Hester and the City negotiated a settlement agreement to end the legal dispute.

ANALYSIS

In order to demobilize from the project site, the contractor needs to remove the dewatering and shoring systems from the launching and receiving pits needed for the microtunneling operations and to backfill the pits and perform site restorations. Since there are uncertainties as to the conditions of these systems and the work involved removing them, an agreed estimate was not achieved. As part of the settlement agreement, the parties agreed that the work to be done would be paid on a force account basis not-to-exceed \$800,000 as provided for under Section 9-1.03 of the City's Standard Specifications. Issuing the change order will enable the contractor to perform site restoration as mentioned above. The change order will also compensate the contractor for restoration of landscaping and irrigation facilities disturbed during construction.

Once the contractor satisfactorily completes the work under this change order, the contract will be terminated.

EVALUATION AND FOLLOW-UP

Both the budget and schedule to complete the project will require additional input and support from Caltrans. Staff will continue to coordinate with Caltrans to plan for the successful completion of the project in the future.

No additional follow up action with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative 1: Not to approve the additional work

Pros: None.

Cons: See below

Reason for not recommending: The issuance of CCO#5 is one of the conditions set forth in the Settlement Agreement between the City and McGuire & Hester. Not issuing the CCO violates the agreement terms.

Alternative 2: Backfilling the pits and restoring the project site under a separate contract.

Pros: None

Cons: It will take more time to advertise, bid and award a separate contract to perform the said work and the City may risk liable for work previously performed by a different contractor.

PUBLIC OUTREACH/INTEREST

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

Although the criteria do not apply to this item, this memorandum will be posted on the City's website for the April 15, 2008 Council Agenda.

COORDINATION

This project and memorandum have been coordinated with the City Manager's Budget Office, the City Attorney's Office, and the Departments of Planning, Building and Code Enforcement, Finance, Transportation, and Parks, Recreation and Neighborhood Services.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it spurs construction spending in our local economy,

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$800,000

Project Delivery	\$1,144,774
Land Acquisition	168,180
Construction	4,939,146
Contract Change Order No. 5	800,000
Previous Contract Change Order (Nos. 1 to 4)	<u>156,600</u>
TOTAL PROJECT COSTS	\$7,208,700
 Prior Year Expenditures	 (\$3,546,203)
 REMAINING PROJECT COSTS	 \$3,662,497

2. COST ELEMENTS OF CONTRACT CHANGE ORDER:

Removal of shoring, restoration of jacking and receiving pits, and perform landscaping operation to comply with permit conditions - Lump sum amount not to exceed \$800,000.

3. SOURCE OF FUNDING: 540 – Sanitary Sewer Connection Fee Fund
 545 – Sewer Service and Use Charge Capital Improvement Fund

4. OPERATING COSTS: There are no cost implications to the General Fund as a result of this action.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. For CCO #5	2007-2008 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs*				\$3,662,497			
Current Funding Available							
540	4273	Preliminary Engineering	108163	\$730,000	\$0	Capital V-84	N/A
540	6444	Inflow and Infiltration Reduction	137255	\$2,388,000	\$0	Capital V-73	10/16/07 Ord. No. 28143
545	4271	Miscellaneous Rehabilitation Projects	108163	\$4,667,000	\$800,000	Capital V-75	10/16/07 Ord. No. 28143
Total Current Funding Available				\$7,785,000	\$800,000		

* \$4,939,146 was already encumbered in fiscal year 2004-2005 for construction contract.

HONORABLE MAYOR AND CITY COUNCIL

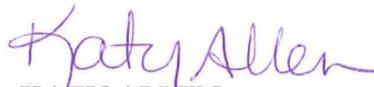
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CEQA

CEQA: Mitigated Negative Declaration, PP03-12-378.



KATY ALLEN

Director, Public Works Department

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

MO:TN:DM