



Council Meeting: December 17, 2013

SUBJECT: Increase Construction Contract Contingency by \$408,259 for Project 822710, Mathilda Avenue Railroad Overpass Improvements

BACKGROUND

The Mathilda Avenue Bridge Project required the widening and modification of the Mathilda Avenue Bridge between Washington Avenue and California Avenue to address structural deficiencies identified by Caltrans. The scope of work included widening the bridge at Evelyn Avenue and the Caltrain Tracks, constructing pedestrian access ramps, a new loop off ramp, and modifications to San Andreas Court. The original engineer's estimate for the construction portion of the project, excluding contingency, was \$23,861,000. The lowest bid received was \$15,652,311. On January 12, 2010, City Council awarded Bid No. F0910-29 to RGW Construction Inc. of Livermore in the amount of \$15,652,311, with a 15% contingency of \$2,347,847, for a total contract amount of \$18,000,158.

The project was funded by a \$26,058,708 Caltrans-administered grant (Federal Highway Bridge Program) which paid 80% of the cost during preliminary engineering and 88.53% of the cost during right-of-way engineering and construction. The City's share of 20% during preliminary engineering and 11.47% during right-of-way engineering and construction was funded through a combination of Gas Tax revenues, Measure A funds and Traffic Mitigation Fees. Budgeted funds are available in Capital Project 822710 (Mathilda Avenue Railroad Overpass Improvements).

Construction for the project commenced on March 8, 2010 and was scheduled for completion by November 2011. A number of issues were encountered during construction that resulted in an extension of the project's completion date and increased the project's cost. These issues included discovery of unmarked underground utilities and subsurface foundations that conflicted with placement of the new work, nesting birds in the soffits of the existing bridge structure, increased public inconvenience and traffic control costs and variations bid quantities. Available contingency funds covered these items, however as work progressed it became apparent that additional funding was necessary. As a result, Council increased the construction contingency by \$200,000 (RTC 12-100), thus increasing the total contract amount to \$18,200,158. At the time, Council was advised that staff would return for additional funds to close out the project.

In March 2012, staff requested a construction budget increase of \$505,000 from the Caltrans grant to cover the anticipated additional costs. Caltrans

approved the request in May 2012 and increased the construction phase budget from \$18,000,158 to \$18,505,158. Construction for the project was substantially completed on June 5, 2012 and was fully completed on September 7, 2012.

EXISTING POLICY

Land Use and Transportation Element C3.1.4, Study and implement physical and operational improvements to optimize roadway and intersection capacities.

ENVIRONMENTAL REVIEW

Council certified a Final Environmental Impact Report (EIR) on November 28, 2006 (RTC 06-359). The EIR was later augmented by an EIR Addendum that provided additional information and planned mitigation measures to address project construction noise. On March 18, 2008 Council adopted a Resolution of Findings including Statement of Overriding Considerations, certified the Environmental Impact Report as augmented by EIR Addendum, and adopted a revised Mitigation Monitoring and Reporting Program (RTC 08-085).

DISCUSSION

In the process of closing out the project staff reconciled all final pay quantities and adjusted the contract amount with the exception of project delays in March 2013. This updated the total construction cost to \$18,070,917 and left a contingency balance of \$129,241 on the Council approved contract.

The contractor has submitted a request for additional compensation for delays due to conflicts with existing foundations and utilities and the reconstruction of San Andreas Court. Staff has now negotiated a final change order for a lump sum amount of \$537,500 that compensates the contractor for project delays. This amount constitutes full payment for all work performed by the contractor, its subcontractors and suppliers.

The proposed final payment of \$537,500 will increase the final construction cost \$103,259 higher than the \$18,505,158 construction budget approved by Caltrans and results in a final construction contract amount \$408,259 higher than previously approved by Council.

A contingency increase of \$408,259 is therefore necessary to make final payment to the contractor. Of this amount, \$305,000 in funding is available from grant funds, while \$103,259 would need to be covered by the City. Staff does not recommend requesting an additional budget increase through Caltrans. Approaching Caltrans for a budget increase at this stage will take several months for consideration, and has a high probability of being rejected. As part of the previous Caltrans budget increase, Caltrans emphasized that allocation of additional funds would be extremely difficult for the project.

Approval is requested to increase the construction contract contingency by \$408,259 to allow final payment and close out of the construction project.

FISCAL IMPACT

There is no budgetary impact to increasing the construction contingency. These funds are available in Capital Project 822710 - Mathilda Avenue Railroad Overpass Improvements.

The total available budget for the City's share is based on the original engineer's estimate of total project costs prior to the bid opening. Since bids were significantly lower than the engineer's estimate, there are existing funds available for additional project contingencies such as the one currently required. The City's share for this project is budgeted from Measure A funds, Gas Tax Funds, and other state and local grants. Staff recommends that the City's \$103,259 share of the \$408,259 increased construction contingency be funded out of the remaining Gas Tax Funds.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center, Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

Council approves a construction contract contingency increase of \$408,259 to allow for final and full settlement of all claims for this project.

Reviewed by:

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Prepared by: Nasser Fakh, Assistant City Engineer

Reviewed by:

Grace Leung, Director, Finance

Approved by:

Gary M. Luebbers
City Manager