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Memorandum

Agenda Item 7

TO: Bay Area Headquarters Authority

DATE: June 19, 2013

FR: Executive Director

W. I. 9130

RE: Contract Amendment - McCarthy Building Companies, Inc. a) Preconstruction Services (\$510,000), b) Construction Services i) For Hard Demolition and Seismic Retrofit Construction Services (\$16,300,000 and \$800,000 Contingency), and ii) For Mechanical/Electrical/Plumbing Construction Services Early Work (\$200,000)

This item would authorize the Executive Director or his designee to negotiate and enter into the following contract amendments with McCarthy Building Companies, Inc. ("McCarthy"):

Preconstruction Contract

| | Authorized Contract and Contingency | Requested Contract Amendment | Total Contract Value |
|-----------------|--|-------------------------------------|-----------------------------|
| Contract | \$700,000 | \$510,000 | \$1,210,000 |

Construction Contract

| Scope | Authorized Contract | Requested Contract Amendment | Revised Contract Value | Authorized Owner Contingency | Requested Addition to Contingency | Revised Owner Contingency |
|--------------------------------------|----------------------------|-------------------------------------|-------------------------------|-------------------------------------|--|----------------------------------|
| Soft Demolition | \$5,500,916 | n/a | \$5,550,916 | \$550,000 | \$800,000 | \$1,500,000 |
| Hard Demolition and Seismic Retrofit | \$1,500,000 (Early Work) | \$16,300,000 | \$17,800,000 | \$150,000 | | |
| MEP (Early Work) | n/a | \$200,000 | \$200,000 | n/a | n/a | n/a |
| Total Construction Contract | \$7,000,916 | \$16,500,000 | \$23,550,916 | \$700,000 | \$800,000 | \$1,500,000 |

Table 1: Current value of McCarthy Preconstruction and Construction Contracts with revised values if approved by Authority.

Background Information

Attachment A provides background on the Construction Manager at Risk (CMAR) construction model, and the Preconstruction and Construction Contracts with McCarthy.

Proposed Contract Amendments

A. Preconstruction Contract

McCarthy's response to the RFP/RFQ included a fixed fee cost of \$555,000 to provide preconstruction services for an assumed scope of work. McCarthy has requested a fee increase of \$510,000 based on the following:

1. A one-year extension of the design schedule caused by additional programming work in the first half of 2012 during the inclusion and exclusion of agency partners, a slowdown of work during the State audit, and delay of the relocation of the existing tenant. During this extension, McCarthy has continued to support the design with continuous cost estimating and constructability reviews, revised phasing and contract packaging plans, and schedule revisions.
2. The RFP assumed the existing tenant would be relocated in June 2013, such that most work would not be impacted by requiring work-arounds. With the tenant in the building, the project has become much more challenging and has required McCarthy to engage additional staff while developing work-around strategies.
3. Additional work was added to McCarthy's base contract, including: hazardous materials testing; verification of subgrade as-built structural conditions; acoustical and vibration impact studies (to understand the impact of construction on the existing tenant); and a mock-up of the seismic retrofit scheme. This work was funded from the contingency.

Authorizing this amendment will allow McCarthy to continue preconstruction services, including providing: bidability and constructability reviews of the final design, including clash detection of the MEP systems; continuous estimating; value engineering; bid packaging and subcontractor prequalification for the core and shell and the interiors phases; and scheduling through completion of design in January 2014. This amendment would be funded from the contingency.

B. Construction Contract : Hard Demolition and Seismic Retrofit

In April 2013, BAHA authorized \$1,500,000 for early work related to Bid Package #2, Hard Demolition and Seismic Retrofit, including preparing shop drawings, procuring reinforcing bars and beginning installation, constructing formwork, and relocating utilities.

McCarthy seeks approval of its GMP for Bid Package #2 for a total of \$17,800,000, which is an addition of \$16,300,000. McCarthy presented the costs as follows:

| | Cost Category | Scope | Cost |
|----|---|---|-----------------------|
| 1. | Subcontracted Work | Foundation shoring, concrete reinforcement, shotcrete placement, utility relocation | \$7.6 million |
| 2. | McCarthy Self-performed Work | Doweling, coring, concrete formwork, labor, foundation concrete work | \$5.5 million |
| 3. | Allowances | Held by CMAR | \$2.3 million |
| 4. | CMAR Contingency | Held by CMAR | \$0.8 million |
| | Subtotal | | \$16.2 million |
| 5. | General Conditions | 6.91% of Direct Cost | \$1.1 million |
| 6. | Overhead and Profit | 3.25% of Direct Cost | \$0.5 million |
| | Total Hard Demolition and Seismic Retrofit | | \$17.8 million |
| 7. | Less: 4/2013 Authorized | Early work previously authorized | (\$1.5 million) |
| | 6/2013 Request | | \$16.3 million |

Table 2: Hard Demolition and Seismic Retrofit GMP

Verification of GMP Cost

BAHA has retained the services of the cost estimating firm TBD Consultants (TBD) under BAHA's on-call construction management contract with Harris & Associates to review McCarthy's GMP. TBD's initial comments are that the cost of the work is reasonable, but that there should be more negotiation of certain points. Attachment B provides a more detailed discussion of the components of McCarthy's proposed GMP.

McCarthy's GMP for Hard Demolition and Seismic Retrofit is within the authorized budget (see Attachments A and A-1). Therefore, staff recommends that BAHA authorize the requested GMP for this Bid Package #2 while staff continues to negotiate with McCarthy. Staff also recommends that BAHA authorize a revision of the Owner Contingency to equal \$1,500,000.

Schedule

The work has been divided into two phases:

- Phase 1: Levels 1 through 6 and the north halves of Levels 7 and 8 is scheduled to be completed in December 2013.
- Phase 2: Levels 7 and 8 south halves would be completed two months after the relocation of the existing tenant.

C. Construction Contract: MEP Early Work

In June, McCarthy will advertise Bid Package #3 for MEP work, which includes refurbishment and replacement of building systems. This package is estimated to be \$31 million.

McCarthy will receive MEP bids in August 2013 and submit a GMP for Authority approval in September in advance of GMP approval. Staff recommends the Authority authorize an amount not to exceed \$200,000 to be used as an allowance to perform MEP early work including the development and coordination of computer models, and preparation of submittals and shop drawings. The work will be authorized only when staff determines that subcontractor bids are in line with the project budget.

Recommendation

Staff recommends the Authority authorize the Executive Director or his designee to negotiate and enter into contract amendments with McCarthy:

- a. To amend the Preconstruction Contract to add an amount not to exceed \$510,000;
- b. To amend the Construction Contract to add an amount not to exceed \$16,500,000 for Hard Demolition and Seismic Retrofit and MEP Early Work, which will include a revision to the General Conditions cost basis, and to add \$800,000 to the Owner Contingency to be used at the Executive Director or his designee's determination.



Steve Heminger

Attachments

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REQUEST FOR AUTHORITY APPROVAL

Summary of Proposed Contract Amendment

Consultant: McCarthy Building Companies, Inc. (San Francisco)

Work Project Title: Contract Amendment - McCarthy Building Companies, Inc. a) For Preconstruction Services.

Purpose of Project: Provide Construction Manager at Risk (CMAR) services for the BAHA Facility renovation and retrofit

Brief Scope of Work: Preconstruction services during the project design phase

Project Cost Not to Exceed: \$510,000 (this amendment)
\$700,000 (total before this amendment)
\$1,210,000 (Total Authorized Contract after this amendment)

Funding Source: BAHA Capital Funds

Fiscal Impact: Funding is included in BAHA's FY 2012-13 Capital Budget

Motion by Committee: That the Executive Director or his designee is authorized to negotiate and enter into a contract amendment with McCarthy Building Companies, Inc. to provide preconstruction services described above and in the Executive Director's memorandum dated June 19, 2013 and the Treasurer and Auditor is directed to set aside funds in the amount of \$510,000 for such contract amendment.

BAHA Chair: _____
Amy Rein Worth

Approved: Date: June 26, 2013

REQUEST FOR AUTHORITY APPROVAL

Summary of Proposed Contract Amendment

Consultant: McCarthy Building Companies, Inc. (San Francisco)

Work Project Title: Contract Amendment - McCarthy Building Companies, Inc. for Construction Services: Hard Demolition and Seismic Retrofit and Mechanical/Electrical/Plumbing (MEP) Construction Services Early Work

Purpose of Project: Provide Construction Manager at Risk (CMAR) services for the BAHA Facility renovation and retrofit

Brief Scope of Work: Hard Demolition and Seismic Retrofit and MEP Early Work at 390 Main Street in San Francisco, which will serve as the Regional Agency Facility Headquarters.

Project Cost Not to Exceed: \$16,500,000 and an Owner Contingency of \$800,000 to be used at BAHA's sole discretion (this amendment)

\$7,000,916 and an Owner Contingency of \$700,000 to be used at BAHA's sole discretion (total before this amendment)

\$23,550,916 and an Owner Contingency of \$1,500,000 to be used at BAHA's sole discretion (Total Authorized Contract after this amendment)

Funding Source: BAHA Capital Funds

Fiscal Impact: Funding is included in BAHA's FY 2012-13 Capital Budget

Motion by Committee: That the Executive Director or his designee is authorized to negotiate and enter into a contract amendment with McCarthy Building Companies, Inc. to provide construction services described above and in the Executive Director's memorandum dated June 19, 2013 and the Treasurer and Auditor is directed to set aside funds in the amount of \$16,500,000 for such contract amendment and an additional amount of \$800,000 for the Owner Contingency.

BAHA Chair: _____
Amy Rein Worth

Approved: Date: June 26, 2013

Item 7
List of Attachments
June 19, 2013

A. CMAR Background Information

A-1. 390 Main Cost and Funding Plan by Bid Package

A-2. Project Contingency

B. Components of McCarthy's Guaranteed Maximum Price

B-1. Hard Demolition and Seismic Retrofit Subcontracts

Attachment A
CMAR Background Information
6/19/2013

CMAR Model

The construction contract model selected for this project is Construction Manager at Risk (CMAR). CMAR is called such because the firm that is selected to complete construction management services during design is then eligible to propose a Guaranteed Maximum Price (GMP) to the owner to construct the project. The firm's risk is serving as general contractor and completing construction for a cost not to exceed the GMP.

During design, the CMAR and owner execute a Preconstruction Contract, under which the CMAR provides services that include estimating, value engineering, prequalification of subcontractors, and development and advertisement of subcontract bid packages. When the scope of the design is developed enough for the owner and the CMAR to have high confidence they are reasonably certain of the project cost (anywhere between 50% and 100% design), the CMAR presents to the owner a GMP for the cost to construct the project. If the price is acceptable to the owner, the owner and the CMAR will execute a Construction Contract, which makes the CMAR responsible for completing construction at a cost not to exceed the GMP. If the terms of a GMP cannot be negotiated, the owner has the option of re-advertising the CMAR contract or converting the project to Design-Bid-Build and issuing an Invitation for Bid.

Bid Packages

BAHA and McCarthy executed a Preconstruction Contract in April 2012. During the preconstruction work, BAHA, the Architect/Engineer (Perkins + Will) and the CMAR (McCarthy) determined the project should be divided into four bid packages to accelerate the construction schedule. Early bid packages will be constructed while design and engineering continues for later bid packages. For each bid package, McCarthy will provide a GMP that will be presented to BAHA for approval as an amendment to the Construction Contract.

The four bid packages are as follows:

1. Soft Demolition: Includes removal of interior partitions, ceilings, and infrastructure. (November 2012 BAHA: authorized)
2. Hard Demolition and Seismic Retrofit: Includes the seismic retrofit and structural demolition of slabs for the atrium (June 2013 BAHA: pending authorization).
3. Mechanical / Electrical / Plumbing (MEP): Includes rehabilitation of the existing mechanical system, upgrades to the electrical distribution, and upgrades to the plumbing system (September 2013 BAHA: pending authorization).
4. Core and Shell and Interiors: Includes modifications to the building exterior and the build-out of the agency floors (January 2014 BAHA: pending authorization).

Attachment A-1 recategorizes the \$122 million project costs authorized by BAHA in January 2013 (included with Item 4, Status Report) into line items that match the bid packages shown above.

Payment to CMAR

Payment terms for McCarthy are defined as follows:

1. Preconstruction Services: bid by McCarthy as a fixed fee using assumptions laid out in BAHA's Request for Qualifications/Request for Proposals (RFQ/RFP).
2. Direct Cost of Construction: the bid price of subcontracted and self-performed work.
3. Construction General Conditions: which include field oversight and indirect costs identified by BAHA in the RFQ/RFP, were bid as a percentage of the total Direct Cost of Construction.
4. Overhead and Profit: which include home office costs, were also bid as a percentage of the total Direct Cost of Construction.
5. Shared CMAR Contingency: BAHA's contract incentivizes McCarthy to reduce change orders by sharing a portion of the CMAR Contingency if it is unused. For more information on the CMAR contingency, see Attachment A-2. The shared savings are defined as 30% of the unspent CMAR Contingency, not to exceed 0.9% of the total Direct Cost of Construction.

Attachment A-1
390 Main Cost and Funding Plan by Bid Package
6/19/2013

| | | 35% Design Authorized | 65% Design Estimate | Change |
|----------|--|--------------------------|------------------------|----------|
| 1 | Building Purchase | 93 | 93 | 0 |
| | | | | |
| | Renovation | | | |
| a | A/E, Consultant Support Fees, and CMAR | 9 | 10 | 1 |
| b | Soft Demolition* | 5 | 5 | 0 |
| c | Hard Demolition and Seismic Retrofit* | 17 | 17 | 0 |
| d | Mechanical/Electrical/Plumbing | 29 | 31 | 2 |
| e | Core and Shell, Interiors, and Fixtures | 33 | 35 | 2 |
| f | Technology | 6 | 6 | 0 |
| g | Furniture | 5 | 5 | 0 |
| h | Contingency | 18 | 13 | (5) |
| 2 | Total Renovation | 122 | 122 | 0 |
| | | | | |
| 3 | Total Cost (1+2) = Initial Toll Contribution | 215 | 215 | 0 |
| | | | | |
| | Deductions from Initial Toll Contribution | | | |
| a | BAAQMD | 29 | 29 | 0 |
| b | MTC/SAFE | 19 | 19 | 0 |
| c | ABAG | 7 | 7 | 0 |
| d | Tenant Reimbursement | 15 | 15 | 0 |
| e | RAFC Reserve | 1 | 1 | 0 |
| f | FEMA | 3 | 3 | 0 |
| 4 | Total Deductions from Initial Toll Contribution | 74 | 74 | 0 |
| | | | | |
| 5 | Net Toll Contribution (4-3) | 141 | 141 | 0 |

Figures expressed in \$1,000,000s

*Owner and CMAR Contingency captured in 1h) Contingency.

Attachment A-2
Project Contingency
6/19/2013

Definitions

The **Design Contingency** is established to be used during the design phase and is drawn down as the scope solidifies and details that were not accounted for in earlier design packages are accounted for and added to the project cost estimate. At the end of design, when the final construction contract is executed, any remaining design contingency will be reallocated.

The construction contingency for this project is divided between **CMAR Contingency** and **Owner Contingency**.

The CMAR Contingency is negotiated during establishment of the Guaranteed Maximum Price (GMP) and held by the CMAR to correct preventable costs, excluding defective work, that are the CMAR's responsibility. The CMAR can use this contingency if:

1. The CMAR performs design-build work and costs are incurred as a consequence of errors or omissions in the plans or specifications of the CMAR's designs.
2. Costs are incurred as a consequence of CMAR's errors or omissions in performing Preconstruction or Construction phase services, so long as costs do not result from CMAR's gross negligence or willful misconduct.

BAHA's contract incentivizes McCarthy to reduce change orders by sharing a portion of the CMAR Contingency if it is unused. The shared savings are defined as 30% of the unspent CMAR Contingency, not to exceed 0.9% of the total Direct Cost of Construction.

The Owner Contingency is held by BAHA to change the scope of the work during construction, or to address differing site conditions.

Current Use of Contingency

In January 2013, BAHA authorized a project budget of \$122 million, which included \$104 million for identified costs, and \$18 million contingency. Staff subdivided the contingency to include \$7 million for design \$11 million for construction. Of the \$11 million contingency for construction, the division between CMAR and Owner Contingency will be negotiated.

The May 2013 cost estimate of the 100% Design Development drawings and specifications (equivalent to 65% design) priced the cost of the work at \$112 million before contingency. Through value engineering, the team reduced \$3 million from the project costs, for a revised total of \$109 million, which is \$5 million more than the January estimate. This increase is fully offset by allocating \$5 million of the \$7 million Design Contingency such that the project budget remains \$122 million. While the project remains within budget, the project team is targeting \$1-2 million in additional project savings, which would then be added back to the contingency.

Major contributors leading to the usage of Design Contingency include:

1. Electrical costs, including quantities and unit costs for lighting, security, audio-visual, and telecommunications infrastructure increased. (\$2 million)
2. The project has started to incorporate the impact of the existing tenant remaining beyond 12/2013. The cost of additional phasing and shift work assumes an April 2014 relocation. (\$1 million)

Of the remaining \$13 million, staff is reserving the money as follows:

| | Project Phase | Contingency* | Date Allocated | Type of Contingency |
|----|--------------------------------------|---------------------|-----------------------|----------------------------|
| 1. | Soft Demolition | \$1 | 11/2012 | Construction Contingency |
| 2. | Hard Demolition and Seismic Retrofit | \$1 | 6/2013 | Construction Contingency |
| 3. | 100% Design Cost Reconciliation | \$2 | 9/2013 | Design Contingency |
| 4. | Mechanical/Electrical/Plumbing | \$4 | 9/2013 | Construction Contingency |
| 5. | Core and Shell and Interiors | \$5 | 1/2014 | Construction Contingency |
| | Total | \$ 13 | | |

*Figures expressed in \$1,000,000s. Includes CMAR and Owner Contingencies

Attachment B
Components of McCarthy's Guaranteed Maximum Price
6/19/2013

McCarthy's Guaranteed Maximum Price (GMP) contains the following components:

1. Subcontracted Work: Hard demolition, concrete, and rebar were subcontracted via low bid procurement. Work related to the relocation of existing utilities in the way of the work will be paid on a time and materials basis, as the scope is not easily quantified and would risk receiving high bids. The subcontracted work is identified in Attachment B-1.
2. McCarthy Self-performed Work: McCarthy proposes to self-perform components of the concrete work, including doweling, coring, concrete formwork, labor, and foundation concrete work. BAHA's cost estimating consultant, TBD Consultants (TBD) is presently reviewing the cost proposal.
3. Allowances: McCarthy's allowances are placeholders for specific work that may be required but whose cost may not be fully identified. The cost of the work captured by the allowances is within the GMP. The proposed total allowance of \$2.3 million appears high. BAHA will identify risks that are better held by BAHA, remove those items from the GMP, and carry them within the Owner Contingency. At the end of the project, all unused allowances are returned to BAHA.
4. CMAR Contingency: McCarthy proposes a five percent CMAR Contingency for this work, which is reasonable. Unused contingency returns to BAHA, less any shared savings (see Attachment A-2 for detail on shared savings).
5. General Conditions: McCarthy's response to the RFQ/RFP included a proposal for General Conditions of 5.3% of the final direct cost of the work. McCarthy has since requested a 1.6% increase to 6.9% of the total direct cost. For this project, that would account for a \$1.5 million increase in cost. McCarthy provided a detailed breakdown of its General Conditions to demonstrate that the extension of the construction schedule, the addition of field staff for night shifts, and the inefficiency caused by phasing and managing the work around the existing tenant are costs not captured in their original RFQ/RFP cost proposal. This request is under negotiation, but the estimate in Attachment A does account for this added cost. General Conditions is not a line item in the budget; rather, it is distributed across all construction line items.

TBD is reviewing this request to increase the General Conditions cost basis. Staff is of the opinion that an increase of 1.6% for the General Conditions is too high, but recommends that the Authority allow staff to continue negotiations with McCarthy and include a revised General Conditions cost rate not to exceed 6.9%.

6. Overhead and Profit: McCarthy's original response to the RFQ/RFP included an Overhead and Profit rate of 3.25% of the final direct cost of the work. This rate is unchanged in this GMP proposal.

Attachment B-1
 Hard Demolition and Seismic Retrofit Subcontracts
 6/19/2013

| Scope | Procurement | Bidder 1 | Base Bid 1* | Bidder 2 | Base Bid 2 | Bidder 3 | Base Bid 3 |
|--------------------------|---------------|-----------------------------|-----------------|-----------------|-----------------|----------|------------------|
| Demolition | Low Bid | Silverado ⁺ | \$ 2,907,647.00 | LVI | \$ 7,468,000.00 | NCM | \$ 11,977,800.00 |
| Shotcrete | Low Bid | Dees Hennessey ⁺ | \$ 946,855.00 | Superior Gunite | \$ 943,600.00 | Conco | \$ 1,177,309.00 |
| Rebar | Low Bid | CMC Rebar ⁺ | \$ 1,481,023.00 | Conco | \$ 2,316,700.00 | | |
| Electrical | Allowance/T&M | Rosendin | \$ 499,647.00 | | | | |
| Fire Protection | Allowance/T&M | Transbay | \$ 120,559.00 | | | | |
| Roofing | Allowance/T&M | Best | \$ 656,226.00 | | | | |
| Mechanical | Allowance/T&M | Southland | \$ 291,224.00 | | | | |
| Drywall | Allowance/T&M | PCI | \$ 241,925.00 | | | | |
| Environmental Monitoring | Allowance/T&M | Vista | \$ 160,076.00 | | | | |

*Selected subcontractor

*Base Bid does not include additive or deductive alternates. For T&M procurements, bid is a not-to-exceed price paid at prevailing wages.