

Memorandum

Agenda Item 5

TO: Bay Area Headquarters Authority

DATE: September 18, 2013

FR: Executive Director

W. I. 9130

RE: Contract Amendment - Construction Services: McCarthy Building Companies, Inc. (\$37,800,000 plus \$2,000,000 additional contingency)

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

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	\$1,500,000	\$2,000,000	\$3,500,000
Hard Demolition and Seismic Retrofit	\$17,800,000	n/a	\$17,800,000			
MEP (Early Work)	\$200,000 (Early Work)	\$37,800,000	\$38,000,000			
Total Construction Contract	\$23,500,916	\$37,800,000	\$61,350,916	\$1,500,000	\$2,000,000	\$3,500,000

Table 1: Current value of McCarthy Construction Contract 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 Amendment: Mechanical/Electrical/Plumbing/Fire Protection (MEPF)

In June 2013, BAHA authorized \$200,000 for early work related to Bid Package #3, including preparing shop drawings and submittals and providing constructability input.

McCarthy seeks approval of its Guaranteed Maximum Price (GMP) for Bid Package #3 for a total of \$38 million, (less \$200,000 for work previously authorized) as follows:

	Cost Category	Scope	Cost
1.	Subcontracted Work	Mechanical, Electrical, Plumbing, Fire Protection	\$29.5 million
2.	McCarthy Self-performed Work		\$0 million
3.	Allowances	Held by CMAR	\$1.4 million
5.	General Conditions		\$4.4 million
6.	Overhead and Profit		\$1.1 million
7.	Subtotal		\$36.4 million
8.	CMAR Contingency	Held by CMAR	\$1.6 million
9.	Total MEPF		\$38.0 million
10.	Less: 6/2013 Authorized	Early work previously authorized	(\$0.2 million)
11.	9/2013 Request		\$37.8 million

Table 2: MEPF GMP

Agency Specific Work Included Within the GMP

Included within the GMP pricing above is work requested by the Bay Area Toll Authority (BATA) to configure the building's server room to include BATA's new server host for the Automated Toll Collection Accounting System II (ATCAS II), as well as equipment to support 511 and the Bay Area Infrastructure Financing Authority's (BAIFA's) Express Lanes. This equipment requires redundant back-up power, supplemental cooling, and security to protect personally identifiable information (PII), the total cost for which has been estimated by McCarthy to be \$2 million. \$1 million has been authorized by BATA in the Toll Bridge Rehabilitation Program for this purpose in FY 2013-14, and another \$1 million is programmed for FY 2014-15.

As the project moves into construction, our regional agency partners may request leveraging the use of BAHA's CMAR to complete additional work not in the scope of the current project. BAHA may agree to the work subject to additional funding by those agencies.

Revisions from June 2013

Attachment B, 375 Beale Street Cost and Funding Plan by Bid Package, shows a change in the Mechanical/Electrical/Plumbing/Fire Protection from \$31 million to \$36 million. The \$5 million change can be accounted for in the budget as follows:

Amount	Source
\$2 million	Transfer of General Conditions Cost from Core and Shell, Interiors, and Fixtures to MEPF (see agenda item no. 3)
\$1 million	Reduction of 100% Design Cost Reconciliation contingency from \$2 million to \$1 million (See Attachment A-1)
\$2 million	BATA Toll Bridge Rehabilitation Program Budget for Supplemental Costs.

Verification of GMP Cost

The subcontracted work was competitively bid, and all packages received a minimum of three bids. The General Conditions were negotiated with the Hard Demolition and Seismic Retrofit GMP, and had been reviewed by BAHA's cost estimating consultant, TBD Consultants (TBD).

McCarthy's GMP for MEPF is within the authorized budget (see Attachment B). Therefore, staff recommends that BAHA authorize the requested GMP for this Bid Package #3 while staff continues to negotiate with McCarthy. Staff also recommends that BAHA authorize a revision of the Owner Contingency to add \$2,000,000 for a total Owner Contingency of \$3,500,000.

Schedule

The work has been divided into two phases:

- Phase 1: Levels 1 through 6 and the north halves of Levels 7 and 8 are scheduled to be completed in the first quarter of 2015.
- Phase 2: The south halves of Levels 7 and 8 would be completed six months after the relocation of the existing tenant.

Recommendation

Staff recommends the Authority authorize the Executive Director or his designee to negotiate and enter into a contract amendment with McCarthy which amends the Construction Contract to add an amount not to exceed \$37,800,000 for MEPF and adds \$2,000,000 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. for Construction Services: Mechanical/Electrical/Plumbing/Fire Protection (MEPF)

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

Brief Scope of Work: MEPF work at 375 Beale Street in San Francisco, which will serve as the Regional Agency Facility Headquarters.

Project Cost Not to Exceed: \$37,800,000 and an Owner Contingency of \$2,000,000 to be used at BAHA's sole discretion (this amendment)

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

\$61,350,916 and an Owner Contingency of \$3,500,000 to be used at BAHA's sole discretion (Total Authorized Contract after this amendment)

Funding Source: BAHA Funds (\$37,800,000)

BATA Toll Bridge Rehabilitation Program Funds (\$2,000,000)

Fiscal Impact: Funding in the amount of \$37,800,000 is included in BAHA's FY 2013-14 Budget. Funding in the amount of \$1,000,000 is included in the FY 2013-14 BATA Toll Bridge Rehabilitation Program Budget. The remaining \$1,000,000 is subject to the approval of the FY 2014-15 Toll Bridge Rehabilitation Program 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 as described above and in the Executive Director's memorandum dated September 18, 2013 and the Treasurer and Auditor is directed to set aside funds in the amount of \$37,800,000 for such contract amendment and an additional amount of \$2,000,000 for the Owner Contingency, with \$1,000,000 subject to the approval by BATA of the FY 2014-15 Toll Bridge Rehabilitation Program Budget.

BAHA Chair: _____
Amy Rein Worth

Approved: Date: September 25, 2013

CMAR Background Information
9/18/2013

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: authorized).
3. Mechanical / Electrical / Plumbing / Fire Protection (MEPF): Includes rehabilitation of the existing mechanical system, upgrades to the electrical distribution and plumbing system and rehabilitation of the fire protection systems. (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).

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, have been revised for the project as part of the Hard Demolition and Seismic Retrofit GMP negotiation to a fixed amount of \$6,899,625.
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-1. The shared savings are defined as 30% of the unspent CMAR Contingency, not to exceed 0.9% of the total Direct Cost of Construction.

Project Contingency
9/18/13

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

With the receipt of the Mechanical/Electrical/Plumbing/Fire Protection bids the contingency plan presented in June 2013 has been modified as follows: \$1 million of the 100% Design Cost Reconciliation has been drawn down, leaving \$1 million.

Of the remaining \$12 million, staff has allocated the money as follows:

	Project Phase	June 2013	September 2013	Date Allocated	Type of Contingency
1.	Soft Demolition	\$1	\$1	11/2012	Construction Contingency
2.	Hard Demolition and Seismic Retrofit	\$1	\$1	6/2013	Construction Contingency

3.	100% Design Cost Reconciliation	\$2	\$1	9/2013	Design Contingency
4.	Mechanical/Electrical/Plumbing	\$4	\$4	9/2013	Construction Contingency
5.	Core and Shell and Interiors	\$5	\$5	1/2014	Construction Contingency
	Total	\$ 13	\$ 12		

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

Agenda Item 5 - Attachment B
 375 Beale Street Cost and Funding Plan by Bid Package
 9/18/2013

		35% Design Authorized	65% Design Estimate	95% Design	Change
1	Building Purchase	93	93	93	0
	Renovation				
a	A/E, Consultant Support Fees, and CMAR Preconstruction	9	10	10	0
b	Soft Demolition*	5	5	5	0
c	Hard Demolition and Seismic Retrofit*	17	17	17	0
d	Mechanical/Electrical/Plumbing/Fire Protection*	29	31	36	5
e	Core and Shell, Interiors, and Fixtures	33	35	33	(2)
f	Technology	6	6	6	0
g	Furniture	5	5	5	0
h	Contingency	18	13	12	(1)
2	Total Renovation	122	122	124	2
3	Total Cost (1+2) = Initial Toll Contribution	215	215	217	2
	Deductions from Initial Toll Contribution				
a	BAAQMD	29	29	29	0
b	MTC/SAFE	19	19	19	0
c	ABAG	7	7	7	0
d	Tenant Reimbursement	15	15	15	0
e	RAFC Reserve	1	1	1	0
f	FEMA	3	3	3	0
g	BATA Toll Bridge Rehabilitation	0	0	2	2
4	Total Deductions from Initial Toll Contribution	74	74	76	2
5	Net Toll Contribution (3-4)	141	141	141	0

Figures expressed in \$1,000,000s

*Owner and CMAR Contingency captured in 1h) Contingency, including \$1.6 million for MEPF CMAR Contingency