



DATE: November 6, 2023

TO: Mayor and Members of the City Council

VIA: Stefan Chatwin, City Manager
Marlene Subhashini, Assistant City Manager

FROM: Andrew Brozyna, Public Works Director
Francine Magno, Senior Civil Engineer

DEPARTMENT: Public Works

SUBJECT: AUTHORIZATION FOR A ONE TIME INCREASE TO CITY
MANAGER APPROVAL AUTHORITY ASSOCIATED WITH
CONTRACT CHANGE ORDER THIRTY SEVEN (CCO 37), IN AN
AMOUNT UP TO \$50,000, AS NECESSARY, TO COMPLETE
CHANGE WORK FOR THE LEVEE PROTECTION PLANNING
AND IMPROVEMENTS PROJECT (CIP 327-657)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution providing authorization for a one time increase to City Manager approval authority associated with Contract Change Order Thirty Seven (CCO 37), in an amount up to \$50,000, as necessary, to complete critical change work during the permitted work window for the Levee Protection Planning and Improvements Project (CIP 327-657).

EXECUTIVE SUMMARY

The change work (the Work) related to CCO 37 includes the removal of the temporary sheet piles at the Baffin and Egress Bridge; slope remediation on the slope adjacent to the Baffin Bridge; the purchase and installation/removal of protective materials to facilitate heavy equipment across the newly constructed levee improvements in order to perform the sheet pile and slope remediation work; and mobilization/demobilization costs associated with the sheet pile removal and slope remediation as further discussed. A portion of bay trail slope adjacent to the Baffin Bridge is compromised. As tidal flows

move through the area, the slope continues to erode increasing the risk of undermining the trail, an existing major gas line facility, and an existing water line facility. It is imperative that action is taken swiftly to perform change work to remediate the slope and remove the sheet piles. This work must be performed within the in-water work window per the San Francisco Bay Conservation and Development Commission (BCDC). The in-water work window ends on November 30, 2023. If the Work is not performed by November 30, 2023, the City could not return to perform the slope repairs and sheet pile removal until September 1, 2024.

Per City Resolution No. 2020-76, authorization was given to the City Manager to execute contract change orders up to \$250,000. On October 30, 2023, the City Manager executed CCO 37 directing the Contractor to perform the Work on a time and materials basis for a not-to-exceed amount of \$250,000. The Work is expected to occur between October 30-November 30, 2023. Per the contract documents, the Contractor is required to notify the City in writing when approaching the not-to-exceed amount and if an increase to the limit is required.

Due to the critical nature and timing of the Work associated with CCO 37, staff is recommending the City Council adopt the attached resolution providing authorization for a one time increase to City Manager approval authority associated with Contract Change Order Thirty Seven (CCO 37), in an amount up to \$50,000, as necessary, to complete the Work during the permitted work window. Staff does not anticipate the Work exceeding the current not-to-exceed amount. However, in the event it does exceed the current not-to-exceed amount, the City would be at risk of not having the Work completed within the permit window due to there being inadequate time to take an additional change order to City Council for approval.

BACKGROUND

Sheet Pile Removal & Slope Remediation

As part of the BCDC permit requirements for the Levee Project, the City is required to restore full tidal flows to the O'Neill Slough. In order to meet the requirements of the permit and restore full tidal flows, two pedestrian bridges (Baffin Street Bridge and Egress Bridge) were constructed on either end of the O'Neill Slough. As part of the construction of the two pedestrian bridges, a temporary cofferdam/sheet pile was installed. The removal of the temporary cofferdam/sheet pile in January 2022 raised concerns with adjacent City of Belmont residents. City staff determined it was prudent to reinstall a temporary cofferdam/sheet pile to restrict tidal flows until the City confirmed the effects of unimpeded tidal action.

The effects of unimpeded tidal action were analyzed and an addendum to the environmental impact report brought to City Council on September 18, 2023. At the September 18, 2023 City Council Meeting, the City Council, by Minute Order No. 1935, approved the recommendation to remove the existing temporary cofferdam/sheet piles to restore tidal flow back into the O'Neill Slough as required by BCDC and accepted the

addendum to the certified 2017 Foster City Levee Protection Planning and Improvements Project Final Impact Report. The Notice of Determination associated with the addendum was filed at San Mateo County Clerk-Recorder on September 21, 2023.

On June 7, 2023, an individual from the community took action to dig a trench around the temporary sheet pile wall at the Baffin bridge, thus allowing water to flow between the bay and O'Neill Slough. Since then, as tidal flows move through the area, the slope has eroded considerably, increasing the risk of undermining the trail, an existing major gas line facility, and an existing water line facility.

At the July 20, 2020 City Council Meeting, the City Council adopted Resolution No. 2020-76, awarding an agreement to Shimmick Construction Company, Inc. (Shimmick) and establishing a contingency in the amount of \$9,000,000 with authorization given to the City Manager to execute contract change orders up to \$250,000.

ANALYSIS

For tidal action to return to the O'Neill Slough, the temporary sheet piles must be removed. Further, until the temporary sheet piles are removed, the conditions of the BCDC permit cannot be met and therefore the BCDC permit restrictions remain in effect, including bird nesting restrictions.

Flows from the bay continue to erode the slope adjacent to the Baffin Bridge, increasing the risk of undermining the newly improved Bay trail, an existing major gas line facility, and an existing water line facility. This causes a concern over both public safety and the gas line that services a large neighborhood in Belmont. Per the BCDC permit, the Work must occur during the in-water work window which falls between June 1 – November 30 of each year. Further, the Work must also comply with the bird nesting restriction that limits construction activities from September 1st - January 31st of each year.

Accounting for both the in-water work window and the bird nesting restriction, the Work must cease between November 30th and September 1, 2024. With the upcoming storm season approaching, particularly an anticipated El Niño winter, the project team and City staff are very concerned that the slope will continue to erode. In the essence of time, it was recommended that the Work be performed by Shimmick now. The Work will be performed under a contract change order because slope remediation at Baffin Bridge and the pulling of sheet piles for a second time at both bridges were not accounted for in the construction agreement.

Per City Resolution No. 2020-76, authorization was given to the City Manager to execute contract change orders up to \$250,000. On October 30, 2023, the City Manager executed CCO 37 directing the Contractor to perform the Work on a time and materials basis for a not-to-exceed amount of \$250,000. The Work is expected to occur between October 30-November 30, 2023. The Work was directed on time and materials due to both parties not being able to agree upon an upfront lump sum cost. While the City moved forward on a time and materials basis, the estimated lump sum costs were used to determine the

time and materials not-to-exceed amount. CCO 37 includes the direct costs to perform the Work only.

Per the contract documents, the Contractor is required to notify the City in writing when approaching the not-to-exceed amount and if an increase to the limit is required. Due to the critical nature and timing of the Work associated with CCO 37, staff is recommending the City Council adopt the attached resolution providing authorization for a one time increase to City Manager approval authority associated with Contract Change Order Thirty Seven (CCO 37), in an amount up to \$50,000, as necessary, to complete the Work during the permitted work window for the Levee Project. Staff does not anticipate the Work exceeding the current not-to-exceed amount. However, in the event it does exceed the current not-to-exceed amount, the City would be at risk of not having the Work completed within the permit window due to there being inadequate time to take an additional change order to City Council for approval. Any supplemental costs to the CCO 37 not-to-exceed amount would be executed as a subsequent change order.

CEQA

An Environmental Impact Report was prepared for the Levee Protection Planning and Improvements Project (State Clearinghouse No. 2016012012). An addendum to the Environmental Impact Report that analyzed specifically the restoration of tidal action into the O'Neill Slough was prepared and filed in September 2023.

FISCAL IMPACT

There is adequate funding in the project budget to cover the anticipated cost associated with CCO 37.

CITY COUNCIL VISION, MISSION, AND VALUE/PRIORITY AREA

Facilities and Infrastructure

ATTACHMENTS

Attachment 1 – Resolution

Attachment 2 – Contract Change Order 37