

REPORT OF GENERAL MANAGER

DATE August 8, 2012

**APPROVED**

**AUG 08 2012**

**BOARD OF RECREATION  
& PARK COMMISSIONERS**

NO. 12-230

C.D. 14

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: ARROYO SECO – OUTDOOR REFURBISHMENT (W.O. #E170490F) PROJECT – SUPPLEMENTAL AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF RECREATION AND PARKS, THE DEPARTMENT OF PUBLIC WORKS, BUREAU OF ENGINEERING, AND THE DEPARTMENT OF GENERAL SERVICES, CONSTRUCTION FORCES DIVISION – FINAL ACCEPTANCE

R. Adams  
H. Fujita  
V. Israel

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\_\_\_\_\_

K. Regan  
\*M. Shull  
N. Williams

*[Signature]*

*[Signature]*  
\_\_\_\_\_  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

1. Approve a proposed Supplemental Agreement to a Memorandum of Understanding (MOU), substantially in the form on file in the Board of Recreation and Park Commissioners' (Board) Office, between the Department of Recreation and Parks (RAP), the Department of Public Works, Bureau of Engineering (BOE) and the Department of General Services (GSD), Construction Forces Division, for the Arroyo Seco – Outdoor Refurbishment (W.O. #E170490F) project to transfer an additional \$14,615 to cover the final change order to the project;
2. Authorize the Chief Accounting Employee, subject to City Council and Mayoral approval, to request that City Administrative Office (CAO) include, in the next Construction Projects Report (CPR) to the City Council, a transfer, at the request of BOE, of appropriation, in the not-to-exceed amount of \$14,615, in construction funds to GSD, as follows:

From:

<u>FUNDING SOURCE</u>	<u>FUND NO./DEPT. NO./ ACCT NO.</u>	<u>ENCUMBRANCE AMOUNT</u>
Proposition K – Year 13	43K/10/10F855	<u>\$14,615</u>
Total:		<u>\$14,615</u>

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To:

Through GSD Account, to the appropriate GSD account in Fund No. 100, Department No. 40, listed below:

3180 - Construction Materials and Supplies: \$14,615

And transfer cash to GSD as a one time, final project expense, upon and approval of the expenditure reports submitted by GSD and approval of these reports by the BOE Project Manager;

3. Direct the Board Secretary to transmit the proposed Supplemental Agreement to the City Attorney for review as to form;
4. Authorize the General Manager to execute the Supplemental Agreement, subject to approval of the City Attorney as to form;
5. Accept the work performed under the MOU, as outlined in the Summary of this Report; and,
6. Authorize the Board Secretary to furnish GSD with a letter of completion for the project.

SUMMARY:

On June 2, 2010, the Board awarded the contract to the lowest responsive and responsible bidder, for a total award amount of \$309,120, for the Arroyo Seco – Outdoor Refurbishment (W.O. #E170490F) project (Board Report No. 10-132). Due to the requirements of the Proposition K funding for the project, the contractor was required to obtain and provide the City with the necessary payment, performance bonds and insurance to execute the contract, within ten (10) days allotted for this effort, but in no event later than June 25, 2010. The contractor did not meet the award requirements prior to the required date. Therefore, the award was rescinded following the Board’s direction on June 2, 2012 (with GSD for Construction Services and with the Bureau of Engineering (BOE) for construction management) and as stated in Recommendation No. 1, “Authorize the General Manager to Rescind the award of any construction contract awarded during the remainder of the fiscal year, funded in whole or in part by Proposition K, if the contractor has not executed a written contract with the City, and provided the required payment and performance bonds and proof of adequate insurance coverage...;” and in Recommendation No. 2, “... authorize the General Manager to execute a Memorandum of Understanding (MOU) by June 30, 2010 for the construction of that project with the GSD for construction services and with the BOE for construction management ... The Arroyo Seco - Outdoor Refurbishment project was identified as one of the 5 projects listed on the Attachment B of Board Report No. 10-141.

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The MOU was based on the City Engineer's estimate and for an amount not to exceed Five Hundred Fifty Thousand dollars (\$550,000). The amendment to the MOU was approved on February 2, 2011 (Board Report No. 11-025), increasing the construction budget to \$658,309 and adding 200 calendar days to complete the work.

The new budget was not adequate to cover the cost due to addressing unforeseen conditions. The unforeseen site conditions included avoidance of existing tree roots, repair of unmarked utility conduits and removing boulders not shown on the plans that impeded the contractor's progress in trenching for new utility conduits. As a result of these conditions, the contractor incurred additional labor cost. BOE and GSD agreed that the associated costs for the unforeseen conditions would be negotiated as part of the final change order. In addition, the MOU term expired during this time period, necessitating the Supplemental Agreement.

The project is now complete and the final change order has been negotiated and will not exceed the additional requested amount of \$14,615 in this Supplemental Agreement. BOE therefore recommends that the Board approve the Supplemental Agreement and upon its execution, with the assistance of the CAO, to facilitate the necessary Council approval to appropriate and transfer funds in the amount of \$14,615 into GSD accounts.

A total of twelve (12) change orders were issued for a total of \$73,796.58 including the final change order addressing the unforeseen site conditions.

GSD has finished the work, and the Bureau of Engineering's Recreational and Cultural Facilities Program staff has completed the construction management of the project. BOE advised the Department that GSD completed the construction of this project and that the quality of the work is satisfactory.

There were no contract compliance or labor-related issues with the work done under this MOU. Some of the construction work was completed by City employees and other work by subcontractors under the supervision of GSD staff.

### FISCAL IMPACT STATEMENT:

The future operation and maintenance costs as a result of the completion of this project have yet to be determined.

This report was prepared by Ejike Mbaruguru, Bureau of Engineering and Reviewed by Neil Drucker, Program Manager, Recreational and Cultural Facilities Program; and reviewed by Deborah Weintraub, Chief Deputy City Engineer, Bureau of Engineering and Michael A. Shull, Superintendent, Department of Recreation and Parks, Planning, Construction and Maintenance Division.