



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>[Signature]</i> 10/14/2020		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 10/8/2020		BOARD INITIATED ITEM: No		
Originator/Prepared by: Tracy Johnson Dept: Extensions Development <i>[Signature]</i> Signature/Date: 10/14/2020	General Counsel <i>[Signature]</i>	Controller/Treasurer <i>[Signature]</i> 10/14/2020	District Secretary []	BARC <i>[Signature]</i> 10/14/2020 []

Contract No. 01RQ-110, Hayward Maintenance Complex (HMC) Projects Maintenance Facilities, Change Order No. 400, Final Close-Out for the Component Repair Shop

PURPOSE:

To authorize the General Manager to execute the final close-out Change Order No. 400, for Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities with Clark Construction, which settles all claims pertaining to the Component Repair Shop, for an amount not to exceed \$3,000,000.

DISCUSSION:

On July 23, 2015, the Board of Directors authorized the award of Contract No. 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities in the amount of \$98,390,000, to Clark Construction ("Contractor"). The Contract Work consists of the construction of a new Component Repair Shop and the addition of vehicle lifts as well as associated utilities and trackwork at the existing Hayward Shop.

Following the commencement of the Contract Work, it was determined that there were differing site conditions including several elements of the subsurface soil and utilities. Those changes and others resulted in substantial redesign and resequencing of the Work. This Change Order compensates the Contractor for approximately a year of delay resulting from the differing site conditions and scope changes. The estimated value of this Change Order is for an amount not-to-exceed \$3,000,000. The final amount is contingent upon the results of the review of the Contractor's submitted actual submitted cost records.

Pursuant to Board Rule 5-2.3, Change Orders involving expenditures greater than \$200,000 require Board approval. The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines. The Office of General Counsel will approve the Change Order as to form prior to execution.

FISCAL IMPACT:

The total not to exceed amount of \$3,000,000 for the award of Change Order No. 400 for Final Close-Out to Contract 01RQ-110, is included in the total project budget for 01RQ003, HMC Project Maintenance Facilities, Component Repair Shop.

The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

Proposed Funding	
F/G 3007 - CA-95-X236 HMC	\$3,189,329
F/G 3017 – CA-2020-086	\$ 2,026,836
F/G 3521 – AATC Settlement Proceeds	\$ 5,639,396
F/G 5602 - HSPTBF (Prop 1A) for HMC	\$ 55,164,100
F/G 656K - VTA Hayward Mtce Ctr Cost Sharing	\$ 49,710,000
F/G 8530 – 8533 FY17-FY19 Operating Alloc to Cap	\$ 17,749,289
TOTAL	\$ 133,478,850

As of Oct 13, 2020, \$133,478,850 is the total budget for this project. BART has expended \$128,061,320 committed \$1,579,982 and reserved \$1000 to date. This action will commit \$3,000,000 leaving an available fund balance of \$836,548 in these fund sources for this project.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

ALTERNATIVES:

The Board can elect not to authorize the execution of this Change Order. Failure to issue the Change Order will lead to a claim for the Contractor’s costs due to differing site conditions,

design changes and associated delays as well as potential litigation costs, potentially increasing the final cost to the District.

RECOMMENDATION:

Recommend that the Board approve the following motion:

MOTION:

The General Manager is authorized to execute Change Order No. 400, Final Close-out for the Component Repair Shop, for an amount not to exceed \$3,000,000, for Contract 01RQ-110, Hayward Maintenance Complex Project Maintenance Facilities, with Clark Construction.



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ATTACHMENT #1

CONTRACT NO. 01RQ-110

CO No: 400

CHANGE ORDER SUMMARY

BACKGROUND

Name of Contractor: Clark Construction Group
 Contract No./NTP: 01RQ-110 / October 21, 2015
 Contract Description: Hayward Maintenance Complex Project – Maintenance Facilities

Percent Complete as of: 10/06/2020 – 99.99%
 Dollars Percent Complete as of: 10/06/2020 – 99.24%

COST	<u>% of Award</u>	<u>Cost</u>	<u>Contract Amount</u>
Original Contract Award Amount			\$98,390,000.00
Change Orders:			
Other than Board Authorized C.O.s:	7.67%	\$7,547,616.07	
Board Authorized Change Orders:	14.14%	\$13,916,139.14	
This Change Order No. 400:	3.05%	\$3,000,000.00	
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Subtotal of all Change Order	24.86%	\$24,463,755.21	
<u>Revised Contract Amount:</u>			\$122,853,755.21

SCHEDULE

Original Contract Duration: 860 Days
 Time Extension to Date: 372 Days
 Time Extension Due to Approved COs: 372 Days
 Time Extension Due to This Change Order 400: 345 Days
 Revised Contract Duration: 1,577 Days

SUMMARY REASON FOR THIS CHANGE ORDER

Final Close-Out for the Component Repair Shop

Following the commencement of the Contract Work, it was determined that there were differing site conditions including several elements involving subsurface soil and utilities. These changes and others resulted in substantial redesign and resequencing of the Work. This final close-out change order compensates the Contractor for 345 calendar days of delay resulting from the differing site conditions, related scope changes and resequencing of the work. The estimated value of this Change Order is for an amount not-to-exceed \$3,000,000. The final amount is contingent upon the results of the review of the Contractor's submitted actual cost records.