

**REPORT TO MAYOR AND COUNCIL****TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: July 28, 2008

SUBJECT: APPROVING AN AMENDMENT TO THE CONSTRUCTION CONTRACT WITH SPENCON CONSTRUCTION, INC. IN THE AMOUNT OF \$364,987.95 FOR PROJECT NO. 2124, CITYWIDE SIDEWALK IMPROVEMENT ANNUAL PROGRAM (FY 2008-09); AND APPROVING RELATED BUDGET TRANSFERS TOTALING \$419,562

Report in Brief

At the Budget Workshop in May and again at the Budget Hearing in June, the Council expressed interest in the timely repair of the severely uplifted sidewalks along Clayton Rd., Treat Blvd., and Concord Blvd, all major arterial streets. Staff recommends including these repairs in Project No. 2124, the FY 2008-09 cycle of the Citywide Sidewalk Improvement Annual Program and appropriating an additional \$419,562 allocation to the project to fund the repair work. The additional appropriation will come from various approved funded projects or completed projects, and thus will not affect the projects in the recently adopted Capital Improvement Program (CIP) Plan or the active projects

Staff recommends that the Council approve an amendment to the construction contract with Spencon Construction, Inc. in the amount of \$364,987.95 for Project No. 2124 Citywide Sidewalk Improvement Annual Program; and approve related budget transfers totaling \$419,562 per Attachment 2B.

Background

Project No. 2124 is the FY 2008-09 spin off of Project No. 1173, Citywide Sidewalk Improvement Annual Program, the holding account for sidewalk repair projects funded with gas tax, Measure C, Prop. 111, and other similar funds intended for street improvements. Each FY, staff spins off or transfers the Project No. 1173 funding for that FY to a new project for implementation and expenditure tracking purposes.

On March 27, 2007, the Council awarded a construction contract to Spencon Construction, Inc. for Project No. 1173.3, the FY 2006-07 spin off of Project No. 1173. Included in that construction contract was Project No. 1285.3, San Miguel Road Sidewalk Improvements. The Council accepted the work under the contract a few months ago (April 2008).

The construction contract for Project No. 1173.3 (FY 2006-07 spin off) included a renewal option for FY 2007-08 and FY 2008-09. Due to budget issues, the FY 2007-08 cycle of the holding account project was not funded when the Council adopted the FY 2007-08 Capital Improvement Program (CIP) Plan. The Council allocated \$104,741 funding for the FY 2008-09 cycle when it adopted the current FY CIP Plan.

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Discussion

At the May 2008 Budget Workshop and at the June 2, 2008 Budget Hearing, the Council expressed interest in the timely repair of the severely uplifted sidewalks along Clayton Road, Treat Blvd., and Concord Blvd., all major arterial streets. Staff has field measured the severely uplifted sidewalks (including curbs and gutters) along these streets and estimated the repair cost at about \$440,000 (fully loaded cost).

As noted above, Project No. 2124 (the FY 2008-09 spin off project of the Citywide Sidewalk Annual Program) has an allocation of \$104,741, which is insufficient to fund the estimated \$440,000 sidewalk repair along Clayton Road, Treat Blvd., and Concord Blvd. Staff recommends a series of budget transfers (totaling \$419,562) that will increase the allocation for Project No. 2124 to \$524,303. With this allocation, the severely uplifted sidewalks along the three noted arterial streets and some high priority locations could be repaired. It will also fund the annual curb cut work.

The series of budget transfers are listed on **Attachment 2B**. Staff's proposal involves the use of funding from Project No. 1284, Removal of Barriers to the Mobility Impaired and Project No. 1285, Curb, Gutter and Sidewalk Repair. These two projects have CDBG funding of \$100,000 and \$120,000 respectively for a total of \$220,000. The planned sidewalk repair locations along Clayton Road, Treat Blvd., and Concord Blvd. fall outside of the CDBG area, and thus do not qualify for CDBG funding. Therefore, it is necessary to exchange the CDBG fund allocations of the two projects with gas tax, Measure C or similar funds from other similar projects located in CDBG area. These fund exchanges triggered a series of budget transfers (as shown in Attachment 2B).

The budget transfers included the transfer of \$130,475 from Project No. 1363 (the holding account for pavement rehabilitation and overlay projects) to Project No. 2124. The proposed budget transfer will leave Project No. 1363 with a fund balance of \$100,000. The City has traditionally used funding from Project No. 1363 as match for federal grant. Because FY 2008-09 is an "off-cycle year" for street pavement maintenance federal grant (STIP grant), using part of the Project No. 1363 allocation this FY will not put at risk the City's ability to obtain federal grant.

As noted, the prior construction contract with Spencon allows renewal of the contract upon mutual consent of the City and Spencon. Staff has discussed the terms for renewing the contract with Spencon. Spencon has proposed a flat-rate increase of 5% to its unit prices for all items of work. Based on this 5% increase proposal and adding Clayton Road, Treat Boulevard, and Concord Boulevard to the project scope, Spencon's proposal totals \$364,988. Staff reviewed this proposal based on the following:

- California Construction Cost Index;
- Amended Contract between Spencon Construction, Inc. and the City of Alameda; and
- Recent bids received by the City of Walnut Creek.

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The California Construction Cost Index is developed by Engineering News Record and is accepted as a standard gauge for tracking the costs of materials and labor in the construction industry. Spencon submitted their bid for Project Nos. 1173.3 and 1285.3 in February 2007. For the 16-month time period from February 2007 to June 2008 the cost index increased 4.05%. The July 2008 data will be published during the first week of August 2008. The increase in the cost of materials includes materials such as asphalt concrete, steel, lumber, and Portland cement concrete. It is expected that Spencon will start work no earlier than September 2008 and continue through March 2009. From June 2008 to Spencon's construction period, staff projects another increase which will bring the cost index increase to 6.3% relative to February 2007. Therefore, Spencon's 5% flat rate increase is reasonable.

In reviewing the terms of the contract renewal, staff referred to an amended contract between Spencon and the City of Alameda. The amendment increased the unit prices for all items of work by 7.71%, which was based on the California Construction Cost Index.

In addition, staff reviewed bids received by the City of Walnut Creek in May 2008, for a similar sidewalk project. The project scope of work is similar to that of Project No. 2124. The majority of work for Project No. 2124 consists of two items: the replacement of sidewalk and the replacement of curb and gutter. The average unit prices received by Walnut Creek for these two items were \$12.22 per square foot and \$46.83 per lineal foot, respectively. Based on an increase of 5%, the unit price for these same items will be only \$10.50 and \$39.90 (see Exhibit A in Attachment 1).

The alternative to renewing the contract is for staff to prepare construction bidding documents and solicit bids. Based on the bids received by the City of Walnut Creek, it is likely that bid prices will be higher than what Spencon quoted if the project is re-bid. The City Attorney has reviewed the renewal option and concurred that the Council may approve the amendment to the contract.

Project No. 2124 Citywide Sidewalk Improvement Annual Program is categorically exempt from the requirement for the preparation of an environmental document as provided for under Section 15301 of the California Environmental Quality Act. The Notice of Exemption was filed with the County Recorder's Office on July 23, 2008.

The project schedule calls for the construction work to start in September 2008 and extend through March 2009.

Fiscal Impact

Award of the proposed construction contract allows for the acceleration of the repair of severely uplifted sidewalks and curbs & gutters along three of the City's major arterial streets, thus availing of the current lower prices. While the price of crude oil (which has direct impact on the price of construction costs) has increased substantially, construction costs have been stable due to increased competition stemming from the slowdown in the housing development. It is likely that construction costs will begin to escalate once the housing sector activity begins to pick up.

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Further, the additional appropriation will come from various approved funded projects or completed projects, and thus will not affect the projects in the recently adopted Capital Improvement Program (CIP) Plan or the active projects

Public Contact

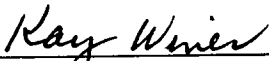
The Agenda item was posted.

Recommendation for Action

Approve an amendment to the construction contract with Spencon Construction, Inc. in the amount of \$364,987.95 for Project No. 2124 Citywide Sidewalk Improvement Annual Program; and approve related budget transfers totaling \$419,562.

Prepared by: Daniel A. Sequeira, PE
Associate Civil Engineer

Reviewed by: Alex Pascual, PE, Director
Building, Engineering &
Neighborhood Services



fr Edward R. James
City Manager

Attachments:

- Attachment 1 - First Amendment to Construction Contract
- Attachment 2A – Budget Analysis
- Attachment 2B – Budget Transfers

FIRST AMENDMENT TO CONSTRUCTION CONTRACT

1
2 **THIS AMENDMENT**, made and entered into this 28th day of July 2008, by and between the City of
3 Concord (hereinafter "CITY"), located in the County of Contra Costa, State of California, and Spenco
4 Construction, Inc., a California corporation., (hereinafter "CONTRACTOR"), whose address is 350 Staysail
5 Court, Foster City, CA 94404.

6 **WHEREAS**, the CITY and CONTRACTOR entered into a Construction Contract for Construction
7 Services dated March 28, 2007; and

8 **WHEREAS**, the original Construction Contract specified that the contract may be renewed on a year-
9 by-year basis for up to two (2) additional years. CITY and CONTRACTOR agree to extend contract, at the
10 same terms, for the repair of curb, gutter, and sidewalk at various locations throughout the City of Concord.

11 **WHEREAS**, the CITY desires to amend the Contract with CONTRACTOR on the terms and
12 conditions set forth herein.

13 **NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and promises of the parties
14 herein contained, the parties hereto agree as follows:

15 1. SERVICES

16 CONTRACTOR shall provide construction services for Project No. 2124, Citywide Sidewalk
17 Improvement Program. CONTRACTOR shall be an independent contractor and shall have responsibility for
18 and control over the details and means of providing its services under this AMENDMENT. CONTRACTOR
19 agrees that its services shall be performed with due diligence and in accordance with generally accepted
20 construction practices.

21 CONTRACTOR shall use its best efforts to perform and coordinate all activities in a timely manner so
22 that the project will be completed according to the established project schedule.

23
24 2. COMPENSATION

25 CONTRACTOR shall be compensated for services performed pursuant to the original Contract in the
26 amount and manner set forth in the Contractor's bid, which was attached as Attachment 3 to the original
27 Contract. Additional compensation for services performed pursuant to this First Amendment to Contract shall
28 be in accordance with Exhibit "A," which is attached hereto and incorporated herein by this reference.

1 Compensation under this First Amendment to Construction Contract, for the repair of curb, gutter, and
2 sidewalk at various locations throughout the City of Concord, shall not exceed \$364,987.95.

3 3. CONTRACTOR shall submit updated insurance documents including additional insured endorsement
4 as required by the CITY per the original contract. Contractor will submit new Performance and Payment
5 Bonds in the amount of 100% of the estimated price (\$364,987.95) for these locations per the original contract.

6 4. Except as expressly modified herein, all other terms and conditions to the Contract dated March 28,
7 2007 shall remain in full force and effect.

8 **IN WITNESS WHEREOF**, the parties hereto have accepted, made, and executed this Agreement
9 upon the terms, conditions, and provisions above stated, the day and year first above written.

10 SPENCON CONSTRUCTION, INC.

CITY OF CONCORD

11 By: _____
12 Name: Steve Stahl
13 Title: President

By: _____
Name: _____
Title: _____

14 Address: 350 Staysail Court
Foster City, CA 94404

Address: 1950 Parkside Drive
Concord, CA 94519

15 Telephone: (650) 574-4197

Telephone: (925) 671-3071

16 APPROVED AS TO FORM:

ATTEST:

17 _____

18 City Attorney

City Clerk

19 FINANCE DIRECTOR'S CERTIFICATION:
20 Concord California

21 Date: _____, 2008

22 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED DURING THE
23 CURRENT FISCAL YEAR 2008/2009 TO PAY THE ANTICIPATED EXPENSES TO BE INCURRED
24 PURSUANT TO THIS CONTRACT. TO WIT: THE SUM OF \$364,987.95.

25 _____
26 Finance Director's Signature

Compensation for Services Performed

First Amendment to Contract

For

Project No. 2124 Citywide Sidewalk Improvement Annual Program

Item	Description	Unit	Estimated Quantity	Unit Price*	Total Price
1	Mobilization	LS	1	2,100.00	2,100.00
2	Traffic Control System	LS	1	2,625.00	2,625.00
3	Construction Area Signs	EA	8	210.00	1,680.00
4	Reconstruct Concrete Sidewalk	SF	19000	10.50	199,500.00
5	Reconstruct Driveway	SF	500	12.08	6,040.00
6	Reconstruct Curb & Gutter	LF	1100	39.90	43,890.00
7	Reconstruct Curb	LF	50	31.50	1,575.00
8	Reconstruct Valley Gutter	SF	40	18.90	756.00
9	Curb Ramp Installation	EA	26	3,570.00	92,820.00
10	AC Patch	LF	450	15.75	7,087.50
11	Sidewalk Grinding	LF	50	10.50	525.00
12	Concrete Patch	SF	10	10.50	105.00
13	Quarry Fines	CY	5	236.25	1,181.25
14	Concrete Sidewalk Installation	SF	60	10.50	630.00
15	Type A-1 Curb and Gutter Installation	LF	50	39.90	1,995.00
16	Type A-2 Curb and Gutter Installation	LF	50	39.90	1,995.00
17	Driveway Installation	SF	40	12.08	483.20
				Total:	364,987.95

*Unit prices increased from those in Attachment 3 (original contract) by 5.00%.

BUDGET ANALYSIS**Citywide Sidewalk Improvement Annual Program****PROJECT NO. 2124****Available Budget**

Gas Tax Fund 260	\$3,579
Measure C Fund 472	\$30,000
Fund 477	\$71,162
Budget Transfer*	<u>\$419,562</u>
Available Budget	\$524,303

*Budget transfers from PJ's 1284, 1285, 1363, 2024, 2064, and 2363.

Soft Costs

1.70%	Design	\$6,200	Plans & Specifications.
2.69%	Design Coordination	\$9,800	Contract Administration.
17.95%	Construction Admin., Inspection	\$65,500	Staff, Materials Testing.
21.32%	Cost Recovery	<u>\$77,815</u>	Indirect costs for design/construction admin.
	Soft Cost	\$159,315	

Soft cost percentages are calculated based on the hard construction cost of \$364,988.

Construction Costs

Construction Cost (Hard Cost)	\$364,988
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Total Budget Required

Soft Cost	\$159,315
Hard Cost	\$364,988
Total Budget Required	\$524,303

Additional Budget Required

Total Budget	\$524,303
Available Budget	\$104,741
Additional Allocation Required	\$419,562

Project 2124, Citywide Sidewalk Improvement Annual Program and Other Related Transfers

Project	Outgoing Fund	Incoming Fund
PJ1284, Removal of Barriers to the Mobility Impaired	\$10,000 Gas Tax to Project 2124, Citywide Sidewalk Imp. Program 2009 \$100,000 CDBG to Project 2064, Monument Corridor Improvements <u>\$110,000 Total Outgoing</u>	
PJ1285, Curb, Gutter and Sidewalk Repair Program	\$20,000 Gas Tax to Project 2124, Citywide Sidewalk Imp. Program 2009 \$33,863 CDBG to Project 2024, Mesa St. Trail Improvements \$13,547 CDBG to Project 2064, Monument Corridor Improvements \$72,590 CDBG to Project 2124, Citywide Sidewalk Imp. Program 2009 <u>\$140,000 Total Outgoing</u>	
PJ 1363, Pavement Management System (holding account project)	\$130,475 AB2928 to Project 2124, Citywide Sidewalk Imp. Program 2009	
PJ2064, Monument Corridor Improvements	\$30,000 Gas Tax to PJ2124, Citywide Sidewalk Imp. Program 2009 \$83,547 Measure C to PJ2124, Citywide Sidewalk Imp. Program 2009 <u>\$113,547 Total Outgoing</u>	From \$100,000 CDBG, PJ1284 Removal of Barriers to Mobility Impaired \$13,547 CDBG, PJ1285 Curbs, Gutter and Sidewalks <u>\$113,547 Total Incoming</u>
PJ2024, Mesa St. Trail Improvements	\$33,863 Gas Tax to PJ2124, Citywide Sidewalk Imp. Program 2009	From \$33,863 CDBG, PJ1285 Curbs, Gutters and Sidewalks
PJ2363, Grant St. Pavement Rehab and Sidewalk Improvements (completed project)	\$26,931 Prop 111 to PJ2124, Citywide Sidewalk Imp. Program 2009 \$12,156 Measure C to PJ2124, Citywide Sidewalk Imp. Program 2009 <u>\$39,087 Total Outgoing</u>	
PJ2124, Citywide Sidewalk Imp. Program 2009		From \$130,475 AB2928, PJ1363 Pavement Management System \$72,590 CDBG, PJ1285 Curb, Gutter and Sidewalk Repair Program \$93,863 Gas Tax, PJ1284 Removal of Barriers, PJ1285 Curb, Gutter, and Sidewalk; PJ2024 Mesa St Trail Improvements; PJ2064 Monument Corridor Improvements \$95,703 Measure C, PJ2064 Monument Corridor Improvements, PJ2363 Grant St Rehab and Sidewalk Improvements \$26,931 Prop 111, PJ2363 Grant St. Rehab and Sidewalk Improvements <u>\$419,562 Total Incoming</u>