

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda date: October 15, 2012  
Reviewed by: BP

**SUBJECT:** Appropriation of Funds and Approval of Resolution Awarding Construction Contract for Buchanan/ Marin Bikeway, Pierce St. to San Pablo Ave, CIP Project S42, Contract No. C12-2, Federal Project CML 5178(012), FTIP ID No. ALA110030.

**FROM:** Jeff Bond, Community Development Director  
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**STAFF RECOMMENDATION**

Staff recommends that the Council:

1. Appropriate an additional \$828,000 for this project from the following sources:
  - a. Measure F 2002: \$300,000
  - b. Measure F 2006: \$228,000
  - c. Gas Tax: \$300,000
  
2. Adopt Resolution No. 2012-56 a Resolution of the Albany City Council awarding the contract for the Buchanan/ Marin Bikeway, Pierce St. to San Pablo Ave, CIP Project S42, Contract No. C12-2, Federal Project CML 5178(012), FTIP Id. No. ala110030 to Prism Engineering, Inc. for the amount bid of \$2,259,038.50

**SUMMARY**

The action before the City Council is to approve a construction contract for \$2.26 million for the construction of the Buchanan-Marín bikeway project. Total project cost, including contingency, is estimated at \$3.3 million. Because construction bids came in higher than expected, an additional appropriation of City Measure F and City share of Gas Tax funds, totaling \$828,000 also is required.

The Buchanan-Marín bikeway project is intended to provide a safe bike and pedestrian path from Pierce Street to San Pablo Avenue. Buchanan currently has the highest traffic volumes of any street in Albany. The project includes a new traffic signal at Pierce Street, a new entrance to the US Department of Agriculture (USDA) facility, and significant changes to the Marin-San Pablo intersection. In addition, the project includes new

landscaping, new fencing, and installation of pipes for an extension of the forthcoming EBMUD recycled waterline.

The planning and design of the project has been enormously complicated. The project has required approvals from USDA, AUSD, UC, and the State Lands Commission. In addition, because the project includes changes to the Marin-San Pablo intersection, which is Caltrans jurisdiction, additional Caltrans review and design standards were triggered. Furthermore, because Federal funds are being used for a significant portion of the project, procedural requirements are more difficult than locally funded projects.

## **BACKGROUND**

### ***Project Planning***

Approximately 12 years ago, the City began implementing an alternative transportation project that will ultimately connect the bicycle and pedestrian facilities on the Ohlone Greenway to the San Francisco Bay Trail. Recent projects that have set the stage for the proposed project include the Class 1 Bikeway that was constructed by Caltrans on the Buchanan Street Overhead and beneath the freeway structures from just west of Pierce Street to the Bay Trail on the west side of the freeway in 2000. Following this, an alternative path that crossed beneath the busy freeway on-ramp was constructed by the City with a grant from the Alameda County Transportation Improvement Authority (ACTIA). In 2005, Marin Avenue was reconfigured and bike lanes were constructed on Marin from the Alameda in Berkeley to Cornell Avenue. The remaining gap in the connection runs from Cornell to the east side of the Buchanan Street Overhead, just west of Pierce Street. This gap was rated the top priority bicycle improvement in the 2006 Alameda County Countywide Bicycle Plan.

### ***Project Funding***

In 2007, the City secured a Measure B grant from ACTIA (now a part of the Alameda County Transportation Commission or ACTC). The Measure B grant provided funding for the environmental work and the preparation of 35% plans for the remaining portion of the Bikeway from Cornell Avenue to the Buchanan Street Overhead. The preliminary plans and environmental documentation for this segment were completed in 2009. The cost of the entire segment from Cornell to the Buchanan Street Overhead was estimated at that time to be approximately \$3.4 million.

In the fall of 2010, the City applied and in January of 2011 was awarded \$1.7 million of federal funds under a Congestion Mitigation and Air Quality (CMAQ) grant to construct the segment from the Buchanan Street Overhead to San Pablo Avenue. This phase of the project includes the addition of a dedicated right turn lane from eastbound Marin Avenue onto southbound San Pablo Avenue.

The CMAQ grant funds are awarded to agencies on a “use it or lose it” basis. That is an agency must spend the funds within three years of receipt of the grant or risk losing the money. Due to the unusual economic times that we are in, the federal government advised MTC that funds for this particular grant cycle would not be extended and Caltrans Local

Assistance, late in 2011 issued and advisory indicating that the funds must be expended within the initial timeframe established by the Grant.

IN addition, the CMAQ funding resulted in some additional requirements that would not have been part of a State or locally (Measure B) funded project. Specifically, the project required National Environmental Policy Act (NEPA) clearance in addition to the California Environmental Quality Act (CEQA) review, which had already been completed. The grant also required final approval by the Federal Highway Administration (FHWA). The City was required to submit a comprehensive package of documents to Caltrans Local Assistance and to the FHWA for approval. The submittal package required the City Engineer to certify that the environmental document, final plans, specifications and estimates (PS&E), and Right of Way documentation conformed to Federal and State standards. The NEPA requirement and the PS&E package were completed and certified by Caltrans in early March 2012.

### ***Control of Right-of-Way***

In late spring of 2012, the City obtained signed temporary and permanent easements from the Albany Unified School District (AUSD) and the University of California (UC). In addition, the City obtained fee title to the property that was necessary for the construction of the right turn lane at Marin and San Pablo Avenues from UC. The right turn lane is necessary to improve the level of service of the intersection to allow an additional phase and crossing time for bicycles and pedestrians once the second phase (San Pablo to Cornell) of the project is completed. The easement over the United States Department of Agriculture (USDA) property had been agreed to in principal by the City and USDA Albany staff; however, the details for legally transferring the rights to the USDA land were unclear at this juncture.

On May 7, 2012, Council authorized the City Manager to accept and record temporary and permanent easements and fee title from the AUSD and the UC. The City also obtained a permit and right to enter from the USDA. Grants from UC and AUSD were subsequently recorded. These actions enabled Caltrans Local Assistance to issue a right of way certification (Cert 3) for the project and on June 1, 2012, Caltrans issued an Expenditure Authorization (E76), which enabled the City to call for bids for the project.

Under the FHWA rules, the Cert 3 enabled the City to call for bids, but not to receive or open the bids until a right to enter and construct the improvements (or Cert. 2) on the USDA had been received. In order to obtain a Cert 2 it was necessary for the City to first obtain concurrent jurisdiction over the portion of the land owned by the Federal Government that is being used for the bikeway, as well as the eastbound lanes of Buchanan Street for which the city has an existing permit. To complicate matters more, the University of California, who was the predecessor in ownership to the USDA land before World War II was required to consent to the use of this land for the bikeway.

City staff determined that navigating the complex right of way requirements for the USDA property which involved a retrocession of jurisdiction by the federal government over the easement territory and portions of Buchanan Street involved procedures and processes that likely would extend the project approvals beyond the time frame allotted under the CMAQ grant placing the \$1.7 million of federal funds in jeopardy. City staff contacted the staffs of Congresswoman Lee and Assembly Member Skinner and requested their assistance with coordinating and expediting the approval process, which involved the U.S.

Secretary of Agriculture and the Lieutenant Governor. Through a collaborative effort led by the City's Projects Manager, Judy Lieberman the signatures were obtained and the upgraded right of way certification (Cert. 2) was received on August 30, 2012.

**DISCUSSION**

***Bidding Process***

On June 18, 2012, Council approved the plans and authorized the City Manager to call for bids. Bids were advertised as required and two mandatory pre-bid meetings were held with prospective bidders. Four (4) addendums were issued in response to questions raised during the bidding period and as necessary to clarify the scope of the project, in part because the conditions for the Caltrans encroachment permit for the work at San Pablo and Marin were not received until after the bids were advertised. In addition to the work required by the encroachment permit, the addendums clarified the scope of work required for installing conduits for a future lighting system and a communications cable for Maintenance Center; for relocating the Palm Trees on San Pablo Ave; for relocating the existing strawberry trees on Marin Ave; for increasing the pavement section for the emergency vehicle access at Pierce Street and for providing changeable message board signs to advise motorists of the construction at San Pablo Marin and the partial road closure at Pierce Street. The addendums raised the Engineer's Estimate from \$1,671,000 to \$1,761,000.

On September 20, 2012, eight bids were received. The bids, listed in ascending order were as follows:

<u>Name of Contractor</u>	<u>Total Bid</u>
1. Prism Engineering Inc.	\$ 2,259,038.50
2. GradeTech Inc.	\$ 2,308,965.00
3. Redgwick Construction Co.	\$ 2,309,209.50
4. Ghilotti Construction Co, Inc.	\$ 2,411,448.00
5. WR Forde Associates	\$ 2,447,398.50
6. Ghilotti Bros, Inc.	\$ 2,684,626.00
7. American Asphalt Repair & Resurfacing Co, Inc.	\$ 3,128,443.00
8. J.A. Gonsalves & Son Construction, Inc.	\$ 3,424,380.00
Engineer's Estimate as advertised 6/18/12	\$ 1,671,000.00
Engineer's Estimate after addendums	\$ 1,761,000.00
Amount over Initial Engineer's Estimate	\$ 588,038.50

The City Engineer checked the bids and mathematical errors in the extensions for five of the eight bidders were identified. These errors did not affect the relative order of the bids. The table above reflects the corrected amounts. All bidders completed the bids and furnished the required information and certificates. The apparent low bidder, Prism Engineering, Inc. (Prism) submitted the required Underutilized Disadvantage Business Enterprise (UDBE)

documentation, which requires that 4% of the work be completed by certified UDBE contractors. Prism is currently constructing the Marin Santa Fe Intersection Safety Improvements and is known to be a responsible contractor. The City Engineer has therefore determined that the bid submitted by Prism is the lowest responsive, responsible bid for this project.

### ***Review of Increase in Project Cost***

Unfortunately, the low bid of approximately \$2.259 million is \$588,000 over the initial Engineer's estimate of \$1.671 million. It is difficult to say why the bids are so far (35%) over the estimate. Of the eight bids that were received on September 20, 2012, the five lowest were within 8% of the low bid. The consistency of the bids indicates that (1) the plans as currently drafted are clear and the Contractors generally understood the scope of work to be performed and (2) the low bid may be assumed to be a reasonable and true estimate of the work to be performed.

We know that there has been a recent spike in the Bay Area economy. This project had a longer than normal bid window due to the right of way issues involved and the spike occurred after the initial estimate was prepared in June. In addition, the price of fuel increased significantly during this same period. The project as initially estimated assumed the work to be done more or less without restriction. The final plans required the work to be constructed in 5 phases. These phases are required to maintain access to the USDA throughout the project. The restriction on the quantities of work to be performed within the various phases increased the unit price for performing the work. The City Engineer reviewed the bids and offers the following observations:

1. Addendums - \$90,000. The addendums increased the scope of the work. The increases were for work which included the Caltrans encroachment permit revisions, the clarification of the palm and strawberry tree relocation specifications, the clarifications of the architectural fence specification on the USDA, the increase of the pavement thickness for the EVA at Pierce Street and the addition of the temporary changeable message signs for traffic safety and public information
2. Concrete removal - \$30,000. This overrun is attributable to fuel and phasing.
3. Asphalt pavement and base - \$300,000. This overrun may also be attributable to fuel increases and the phasing requirements for the USDA driveway and the Caltrans work.
4. Traffic signal modification at San Pablo and Marin - \$60,000. Staff is not clear as to the reason for this. Perhaps attributable to the recent spike in the Bay area economy.
5. Conduits (2") for future pathway lighting and Maintenance Center - \$56,000. Staff is not clear as to why the contractors saw this as so much more expensive than typical. The scope may need to be clarified. The most likely cause is the construction phasing requirement.
6. Clean Water Act requirements - \$30,000. The project includes a storm drain culvert that connects the rain garden on the USDA property to the storm drain system. The cost of this item might be reduced with an alternative pipe material and a reduction in pipe diameter.
7. EBMUD Recycled Water Line - \$22,000. This overrun, which will presumably be picked up by EBMUD under agreement with the City is most likely due to the construction phasing requirements.

### ***Alternatives to Approval of the Construction Contract***

The scope of the project as currently designed, with the possible exception of the conduit for the future Maintenance Center does not contain any amenities that are not required for the project. Therefore, delaying or deferring some of the work items would not reduce the cost of the work and will actually increase the overall cost by adding administration costs for segmental construction. The cost to construct some items, e.g. the conduits beneath the path, would increase dramatically if deferred because of the added work of removing and replacing asphalt concrete. The cost of the all deferred items of work would also increase due to inflation.

Rebidding the project would extend the timeline for awarding a Contract by at least four to six weeks. The City must forward an invoice to Caltrans Local Assistance within 12 months of the receipt of the E76 (June 2013) or the funds may be jeopardized.

### **ENVIRONMENTAL ANALYSIS**

A mitigated negative declaration under CEQA was completed and filed with the Alameda County Clerk and the State Clearing House. Following receipt of the federal CMAQ grant, it was necessary to comply with the requirements of the National Environmental Protection Act (NEPA). Mitigation measures from both CEQA and NEPA analyses have been incorporated into the construction documents.

### **SUSTAINABILITY IMPACT**

The path will increase the use of bicycles and the walk-ability of the City, promoting alternative transportation and will improve pedestrian and bicycle safety. The path is one of the high priority projects of the City's Active Transportation Plan and the Alameda Countywide Bicycle Plan. In accordance to the Clean Water Act, pervious pavement has been utilized for a portion of the path and a bio-swale is included at the west end of the project near Pierce Street. Bio-swale and pervious pavement help improve the quality of storm water that drains to the bay.

### **FINANCIAL IMPACT**

The table below summarizes the project costs and revenues developed for the June 18 Council meeting and as revised. The difference would be made up by allocating \$828,000 of funds described as follows:

- a. Measure F 2002: \$300,000
- b. Measure F 2006: \$228,000
- c. Gas Tax: \$300,000

It is important to note that the additional funds required to approve the contract could be otherwise available to the City for use as a match for upcoming projects. For instance, the Albany ATP projects are unfunded and staff is looking for grant sources to develop Plans,

Specifications & Engineering, environmental work, and construction for these projects. Nevertheless, it is also important to note that the Buchanan-Marin Bikeway project is one of the highest ranked projects in the 2006 Alameda Countywide Bicycle Master Plan and that as such, has significant local and regional importance as a connector between transit hubs and job-rich areas.

	Initial Estimate	Revised Estimate
	6/18/2012	9/21/2012
REVENUE		
CMAQ	\$ 1,702,000.00	\$ 1,702,000.00
BAAQMD	\$ 100,000.00	\$ 100,000.00
EBMUD	\$ 55,000.00	\$ 72,000.00
Measure F 2002	\$ 300,000.00	\$ 300,000.00
Measure F 2006	\$ 328,150.00	\$ 328,000.00
Additional Measure F 2002	\$ -	\$ 300,000.00
Additional Measure F 2006		\$ 228,000.00
Gas Tax		\$ 300,000.00
<b>Total Revenue</b>	<b>\$ 2,485,150.00</b>	<b>\$ 3,330,000.00</b>
EXPENSE		
Design		
AECOM - Final Design	\$ 187,000.00	\$ 187,000.00
AECOM - Additional Scope (Geotech, Etc)	\$ 86,000.00	\$ 86,000.00
LSA - Environmental	\$ 20,000.00	\$ 20,000.00
LCC (City Engineer ) - ROW/Review/ Grant	\$ 90,000.00	\$ 90,000.00
City of Fremont - ROW	\$ 10,000.00	\$ 15,000.00
Gray Bowen- Liaison	\$ -	\$ 15,000.00
<b>Total Design</b>	<b>\$ 423,000.00</b>	<b>\$ 413,000.00</b>
Bids		
LCC - Advertising, printing ,addendums, prebid meetings and DBE certification	\$ 20,000.00	\$ 47,000.00
Additional AEC Design	\$ -	\$ 60,000.00
Misc.	\$ -	\$ 18,000.00
<b>Total Bids</b>	<b>\$ 20,000.00</b>	<b>\$ 125,000</b>
Construction		
Contract Items	\$ 1,617,000.00	\$ 2,259,038.50
Contingencies	\$ 155,150.00	\$ 225,903.85
Construction Management	\$ 270,000.00	\$ 307,057.65
<b>Total Construction</b>	<b>\$ 2,042,150.00</b>	<b>\$ 2,792,000.00</b>
<b>Total Project Expense</b>	<b>\$ 2,485,150.00</b>	<b>\$ 3,330,000</b>

Staff has contacted Alameda County Transportation Commission about the possibility of obtaining additional funds to offset the existing gap between the amount of secured funding and the revised construction cost estimate. While additional outside funding remains a possibility, the City may not award the contract based on unsecured sources of revenue and the award, if made, must be made based upon currently available and designated funds.

**PROJECT SCHEDULE**

As proposed, the Contract would be executed within the next three weeks. A ground breaking ceremony will be scheduled. The construction will take place in 5 phases beginning the first week in November. Allowing for reasonable rain delays, the project is scheduled to be completed in July of 2013. A schedule of the recent and future project milestones is indicated below:

No.	Description	Complete	Agency
1	Receive Partial Waiver from UC	7-30-12	√ UC
2	Receive Letter of Consent	8-10-12	√ USDA
3	Approve Retrocession of jurisdiction	8-14-12	√ State Lands Commission
4	Record Retrocession of Jurisdiction	8-17-12	√ Assembly Member Office
5	Obtain Encroachment Permit San Pablo Ave	8-17-12	√ City/Caltrans District 4
6	Complete ROW Cert. 2	8-24-12	√ City/Caltrans District 4
7	Approve ROW Cert. 2	9-14-12	√ Caltrans Headquarters /FHWA
8	Issue E-76 Authority to Open Bids & Award	9-14-12	√ Caltrans District 4
9	Open Bids	9-20-12	√ City
10	Award Contract	10-15-12	City
11	Circulate Draft of Easement (ROW Cert 1)	10-15-22	City
12	Ground Breaking Ceremony		All
13	Begin Work	11-01-12	Contractor
15	Accept Grant of Esmnt. USDA (ROW Cert 1)	12-12-12	FHWA
16	Record Grant of Easement (ROW Cert 1)	1-16-13	City
17	Complete Construction	7-01-13	Contractor
18	Project Acceptance	8-01-13	City

***PROPOSED REVISION TO PLANS FOR BIKELANE AT MARIN AND SAN PABLO***

As directed by the Council on June 18, staff is investigating ways to improve the plans to facilitate movements for bicycles at the southwest corner of Marin and San Pablo Aves. The City authorized AECOM to prepare a study to install a bicycle lane at this location and staff has contacted the University about obtaining additional right of way for this improvement. If it is not possible to obtain additional right of way, the study will identify other options that may be available. The City has also asked the consultant involved in the Complete Streets Project for San Pablo Ave and Marin Ave to review the study by AECOM. Changes, if recommended and approved by the City Engineer, will be implemented as a change order to the contract. The contingency provided in the budget includes funds for this purpose.

Attachment: Resolution awarding Contract to Prism Engineering, Inc.