TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS

DATE: JUNE 18, 2007 CMR:243:07

SUBJECT: APPROVAL OF: FIRST AMENDED AND RESTATED CONTRACT BETWEEN THE CITY OF PALO ALTO AND THE CITY OF MOUNTAIN VIEW; THREE ENTERPRISE FUND CONTRACTS: MCGUIRE & HESTER IN THE AMOUNT OF $15,950,279, URS CORPORATION IN THE AMOUNT OF $1,093,218, AND AMENDMENT 2 TO RMC WATER & ENVIRONMENT CONTRACT C3151060 IN THE AMOUNT OF $174,000, TOTALING $17,217,497; A STATE REVOLVING FUND LOAN IN THE AMOUNT OF $9,000,000; ADOPTION OF A RESOLUTION ADMINISTERING A CAPITAL RESERVE FUND IN ACCORDANCE WITH THE STATE WATER RESOURCES CONTROL BOARD’S REQUIREMENTS OF THE STATE REVOLVING FUND LOAN PROGRAM; AND A BUDGET AMENDMENT ORDINANCE OF $4,137,300 FOR THE MOUNTAIN VIEW/MOFFETT AREA RECLAIMED WATER PIPELINE PROJECT (CAPITAL IMPROVEMENT PROGRAM PROJECT #WQ-04010)

RECOMMENDATIONS
Staff recommends that Council:

1. Authorize the City Manager or his designee to execute the attached First Amended and Restated contract (Attachment A) between the City of Palo Alto and the City of Mountain View for the Mountain View/Moffett area Reclaimed Water Pipeline project (project).

2. a. Authorize the City Manager or his designee to execute the attached contract (Attachment B) with McGuire & Hester in the amount of $15,950,279 for the construction of the Mountain View/Moffett Area Reclaimed Water Pipeline Project; and
b. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with McGuire & Hester for related, additional but unforeseen work, which may develop during the project, the total value of which shall not exceed $1,595,000.
3. a. Authorize the City Manager or his designee to execute the attached contract (Attachment C) with URS Corporation in the amount of $1,093,218 for construction management services for the project; and
b. Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with URS Corporation for related, additional services, which would be needed and may include the following:
   - Nighttime and weekend inspection – The extent of nighttime and weekend work will be determined as the construction progresses and the schedule firms up;
   - Specialized testing services; and
   - Expert witness

These services are not included in the basic scope of work, but are identified as additional services to be performed as needed when authorized. The total value of additional services shall not exceed $206,782.

4. Authorize the City Manager or his designee to execute Amendment 2 to RMC Water & Environment (RMC) contract C3151060 in the amount of $174,000 for engineering services during construction (SDC) of the project (Attachment D). The amended contract amount, which includes the planning phase, would total-up to $1,974,000.

5. a. Authorize the City Manager or his designee to negotiate and execute a State Revolving Fund (SRF) loan in the amount of $9,000,000 with the State Water Resources Control Board (SWRCB) for the construction of the project;
   b. Direct staff to establish a local state match account (20 percent of project costs) and deposit sufficient funds in the account to make payments to the contractors for the project; and
   c. Adopt the attached resolution (Attachment E) to administer a capital reserve fund in accordance with the SRF loan requirements for future rehabilitation of the project.

6. Adopt the Budget Amendment Ordinance (BAO) in the amount of $4,137,300 to increase the FY06-07 appropriation for CIP Project WQ-04010 and adjust project funding sources (Attachment F).

The above action items are all related to, and represent the total package for the project.

BACKGROUND
The project is a joint project between the cities of Palo Alto and Mountain View to construct a reclaimed water pipeline from the Palo Alto Regional Water Quality Control Plant (RWQCP) to the Mountain View Shoreline community. The City of Palo Alto, as the owner and operator of the RWQCP, is the lead agency for the project. The two cities have worked together on the project since the fall of 2003, starting with the Project Facility Plan and Environmental Study that was partially funded by a State grant. On January 10, 2005, Council approved the Operational and Institutional Agreement with the City of Mountain View that delineates the financial and operational responsibilities of the two cities for the project (CMR:111:05). Project design began in July 2005 when the SWRCB awarded a $3.8 million design and construction grant for the project. In June 2006, the design was completed and the project was issued for bid.
in accordance with the State grant deadline. The bids received, however, were in the $26 million range, considerably higher than the cities’ budget. The City rejected all bids and pursued a new strategy to move forward with the project. The tasks under the new strategy as summarized below are now complete:

Strategy Task 1 - Obtained an extension from the SWRCB for the grant
The SWRCB has extended the deadline for one-year and increased the grant to the maximum $4 million per staff request. The new deadline to award a construction contract for the project is August 31, 2007.

Strategy Task 2 - Acquired a SRF loan from the SWRCB to partially fund the project
On November 6, 2006, Council authorized the City Manager to file an application for a SRF loan for the construction of the project (CMR:404:06). On May 22, 2007, the SWRCB committed to approve a maximum $19 million SRF loan. The SWRCB will issue the loan for the exact loan amount only upon City’s execution of a construction contract for the project and the final loan document.

Strategy Task 3 - Performed value engineering and restructured the project
Staff of both cities worked with the consultant and completed the value engineering and re-design. The goal of the re-design was to reduce the construction cost by $5 million. The new design included several piping and design modifications. The new design has been approved by the State.

Strategy Task 4 - Pursued additional grants
Staff applied for and obtained a second State grant of $972,800. The total of the two State grants is $4,972,800. Staff has applied for, and is working with legislative representatives for a retroactive Federal grant.

Strategy Task 5 - Amended the agreement between the two cities
The SWRCB approved the project for the SRF loan at the May 22, 2007 State Board meeting. The amendment, a collective effort of Palo Alto and Mountain View staff, reflects the conditions for the SRF loan and the new strategy. On June 12, 2007, Mountain View City Council directed their City manager to execute the amendment. The amendment is one of the topics of discussion in this report.

Strategy Task 6 - Re-bid in the spring of 2007
The project was issued for a re-bid in March 2007. Results of the bid is one of the topics of discussion in this report.

DISCUSSION
On June 12, 2007, The City of Mountain View approved the project. Final approval of the project and the SRF loan must be issued by the City of Palo Alto as the lead agency and the applicant for the SRF loan. Implementation of the project requires Council approval of the First Amended contract, three related enterprise fund contracts, the SRF loan, and the BAO. Each of the items is discussed below:
1. **First Amended and Restated Contract**

While the key conditions of the agreement and the percentage cost shares for the project remain unchanged, the Amendment establishes the following additional terms for the agreement:

- Establishes the two cities’ acceptance of, and responsibilities for, the terms and conditions of the SRF loan;
- Extends the term of the agreement from 20 years to 30 years from the original agreement date to capture the life of the SRF loan; and
- Itemizes in greater details the cost share between the two cities during each phase and for each major area of the Project.

2. **Construction Contract**

The work to be performed under the construction contract is for the installation of the reclaimed water pipeline from the RWQCP to Mountain View Shoreline community. Work under this contract is expected to complete in December 2008. The invitation for bid was sent on March 22, 2007.

<table>
<thead>
<tr>
<th><strong>Summary of Bid Process</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bid Name/Number</td>
</tr>
<tr>
<td>Proposed Length of Project</td>
</tr>
<tr>
<td>Number of Bids Mailed to Contractors</td>
</tr>
<tr>
<td>Number of Bids Mailed to Builder’s Exchanges</td>
</tr>
<tr>
<td>Total Days to Respond to Bid</td>
</tr>
<tr>
<td>Pre-Bid Meeting?</td>
</tr>
<tr>
<td>Number of Company Attendees at Pre-Bid Meeting</td>
</tr>
<tr>
<td>Number of Bids Received</td>
</tr>
<tr>
<td>Bid Price Range</td>
</tr>
</tbody>
</table>

*Bid summary is provided in Attachment B1. The Certification of Nondiscrimination is Attachment B2.*

Staff has reviewed all bids submitted and recommends that the bid of $15,950,279 submitted by McGuire & Hester be accepted and that McGuire & Hester be declared the lowest responsible bidder. The bid is 21.6 percent below the engineer's estimate of $20,342,200. The change order amount of $1,595,000, which equals ten percent of the total contract, is requested because hidden obstructions and soil conditions could not be economically pre-determined and may require additional work unknown at this time.

Staff confirmed with the Contractor's State License Board that the contractor has an active license on file. Staff checked references supplied by the contractor for previous work performed and found no significant complaints.
3. **Construction Management Contract**  
   The work to be performed under the construction management contract is for the administration, inspection, quality control, cost control, and record control of the project.

   A request for proposal (RFP) was issued on April 24, 2007. Firms were given 28 days to respond to the request. Three proposals were received on May 22, 2007. The proposals ranged from $2,614,230 to $1,093,218. Those firms not responding indicated that they did not submit a proposal because they are busy on other projects.

   **Summary of Solicitation Process**

<table>
<thead>
<tr>
<th>Proposal Description/Number</th>
<th>Construction Management Services for the MV/Moffett Area Reclaimed Water Pipeline Project / RFP #122034</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>18 months</td>
</tr>
<tr>
<td>Number of Proposals Mailed</td>
<td>9</td>
</tr>
<tr>
<td>Total Days to Respond to Proposal</td>
<td>28</td>
</tr>
<tr>
<td>Pre-proposal Meeting Date</td>
<td>None</td>
</tr>
<tr>
<td>Number of Company Attendees at Pre-proposal Meeting</td>
<td>N.A.</td>
</tr>
<tr>
<td>Number of Proposals Received</td>
<td>3</td>
</tr>
<tr>
<td>Company Name</td>
<td>Location (City, State)</td>
</tr>
<tr>
<td>1. URS Corp.</td>
<td>San Francisco, CA</td>
</tr>
<tr>
<td>2. The Covello Group</td>
<td>Walnut Creek, CA</td>
</tr>
<tr>
<td>3. Harris &amp; Assoc.</td>
<td>Concord, CA</td>
</tr>
<tr>
<td>Range of Proposal Amounts Submitted</td>
<td>$2,614,230 to $1,093,218</td>
</tr>
</tbody>
</table>

   The Certification of Nondiscrimination is Attachment C1. The RFP process allows the City to negotiate the price of the work upon selection of the successful firm.

   An evaluation committee consisting of staff from the City of Mountain View, City of Palo Alto Utilities Department, and the RWQCP reviewed the proposals. Three firms were invited to participate in oral interviews on May 31, 2007. The committee carefully reviewed each firm's qualifications and submittal in response to the criteria identified in the RFP. The criteria used to select the recommended firm include: specialized experience, past performance, qualifications of project team and principal, understanding of project goals, ability to work with the public, familiarity with issues associated with project and proposal clarity. URS Corp. was selected because its proposed team is the most experienced team and has an efficient approach to the project.

4. **Amendment 2 to RMC Contract**  
   The original contract was awarded to RMC in 2003 for the preparation of the Project Facility Plan and environmental reports. Council amended the RMC contract in 2005 to include final design and SDC. In 2006, after Council rejected all bids, staff directed RMC to perform value engineering and re-design of the project under the change order authority of the contract. The value engineering and re-design effort consumed most of the funds remaining
in the contract. When construction starts, RMC, as the design firm, needs to provide SDC for the project. The SDC tasks under amendment 2 include review of submittals, answer technical questions from contractor, review and provide justifications for contractor change order requests, modify design if needed to conform to field conditions, and ensure the delivery of the completed project in accordance with the contract documents.

The original RMC contract for the planning phase was $300,000. Amendment 1 added $1,500,000 for the design services. Amendment 2 would increase the contract by $174,000 for the SDC tasks. The total amended contract for basic services would be $1,974,000. Council had approved a change order authority of $150,000 for additional design services, of which $68,000 was spent for the re-design. Hence, the total design, re-design, value engineering, and SDC services for the project would total up to $1,742,000.

5. Approval of the SRF Loan Amount
Based on the actual bids received, there were insufficient funds budgeted for the project as shown below. The SRF loan was needed to provide sufficient funding.

<table>
<thead>
<tr>
<th>Project Costs &amp; Existing Budget</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design &amp; SDC</td>
<td>$1,742,000</td>
</tr>
<tr>
<td>Construction w/ contingency</td>
<td>$17,545,300</td>
</tr>
<tr>
<td>Construction Management</td>
<td>$1,300,000</td>
</tr>
<tr>
<td>Street Opening Fee</td>
<td>$350,000</td>
</tr>
<tr>
<td><strong>Total Costs of Project</strong></td>
<td><strong>$20,937,300</strong></td>
</tr>
<tr>
<td><strong>Cities Total Budgeted Amount</strong></td>
<td><strong>$16,800,000</strong></td>
</tr>
</tbody>
</table>

The cities’ budgeted amount came from several sources: the City of Mountain View Shoreline community reserve, the Palo Alto Utilities Department Water Fund, the RWQCP CIP, and the RWQCP reserve. Utilization of the zero-interest SRF loan would reduce the amounts drawn from reserves in addition to making up the difference between the budgeted amount and the project costs. On June 12, 2007, The City of Mountain View approved the project and requested a SRF loan to fund $5 million of Mountain View’s share of the project. The RWQCP partners, at the November 2006 meeting, agreed to utilize the SRF loan instead of borrowing from the RWQCP reserve to cover its share of the project. The Palo Alto Utilities Department also prefers to utilize the SRF loan to cover its share. Staff recommends a SRF loan to fund $2.5 million of Palo Alto’s share of the project (Palo Alto Utilities Department and the RWQCP). The SRF loan for both cities combined would fund $7.5 million of the project costs.
The SRF loan program pays $0.833 on the dollar in order to recover its financing costs, which is equivalent to approximately 1.8% APR for the zero interest loan. Hence, to fund $7.5 million for the project, the actual SRF loan amount would be $9 million with the financing costs amortized over the life of the loan. The SWRCB has committed to approve a zero-interest SRF loan in an amount not to exceed $19 million for the project pending on City’s execution of a construction contract and the loan document. The loan amount of $9 million is well below the maximum set by the SWRCB. The table below reflects the effect of the financing charges of the SRF program. The SRF loan will be repaid in equal installments over 20 years. As shown below, the cities of Palo Alto and Mountain View have agreed to repay the loan based on each city’s proportionate share of the loan amount.

<table>
<thead>
<tr>
<th>SRF Loan and Repayments</th>
<th>Total</th>
<th>Palo Alto (incl. RWQCP) Share</th>
<th>Mountain View Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Cost of Project to cities</td>
<td>$15,964,500</td>
<td>$3,803,196</td>
<td>$12,161,304</td>
</tr>
<tr>
<td>City Fund</td>
<td>$8,464,500</td>
<td>$1,303,196</td>
<td>$7,161,304</td>
</tr>
<tr>
<td>Loan Funding Needed</td>
<td>$7,500,000</td>
<td>$2,500,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>SRF Loan Amount (incl. finance charge)</td>
<td>$9,000,000</td>
<td>$3,000,000</td>
<td>$6,000,000</td>
</tr>
<tr>
<td>Annual Loan Payment 20 year term</td>
<td>$450,000</td>
<td>$150,000</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

Compare to a true zero-point, zero-fee, zero-interest system, the annual payment would have been: $375,000, $125,000, $250,000.

As a condition of the zero-interest SRF loan, the SWRCB requires that the City provide matching funds equal to 20% of the project costs (known as State Match Fund). The total City fund of $8.46 million is more than sufficient to cover this requirement. The City is required to establish a local State Match account and deposit sufficient funds in the account to make contract payments. Once the local State Match Fund is expended, the project can request loan monies. The SWRCB also requires the City Council to adopt a resolution to establish a capital reserve fund to pay for future rehabilitation of the project. The SWRCB has confirmed that the rate stabilization reserve already established by the cities of Palo Alto can serve this purpose.

6. Adoption of the BAO
Based on the actual bids received and the availability of the SRF Loan, sufficient funds are now available for the project. A BAO, however, is required to adjust project costs, reflect the new SRF loan, and adjust the original sources of funding based on the loan. Final project costs and the total project budget adjustments needed are shown below. Additional details are discussed under the Resource Impact section of this CMR.
**Total Costs of Project** $20,937,300

<table>
<thead>
<tr>
<th>Costs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Costs of Project</td>
<td>$20,937,300</td>
</tr>
<tr>
<td>Prior Project Budget</td>
<td>$16,800,000</td>
</tr>
<tr>
<td><strong>BAO Needed</strong></td>
<td>$4,137,300</td>
</tr>
</tbody>
</table>

**RESOURCE IMPACT**

The BAO increases the existing FY 2006-2007 appropriation for the CIP project WQ-04010 (Attachment F) from $16,800,000 to $20,937,300. The final sources of funding are as follow:

- State grants $4,972,800
- State Loan (Principal) $7,500,000
- City of Palo Alto Water Fund and RWQCP $1,303,196
- City of Mountain View $7,161,304
- Total Funding $20,937,300

In addition to raising the funding level for the project, the Ordinance adjusts prior funding sources to recognize and reflect the SRF loan and other changes. Original project funding sources are shown in Attachment G.

As the lead agency, the City of Palo Alto will budget and spend all funds. Through a separate contract (Attachment A) between the cities of Palo Alto and Mountain View, financial agreements and reimbursements between the entities are clarified and implemented. The SRF loan (principal and charges) will be repaid based on an amortization period of 20 years and equal annual payments (Palo Alto will pay $150,000 and Mountain View will pay $300,000 annually). Finally, the BAO requests reallocating $1 million from the RWQCP Rate Stabilization Reserve back to the Palo Alto Utilities Water Fund account, and increasing the FY 06-07 budget amount for CIP project #WQ-04010 to reflect funding amounts and sources shown above.

The City of Palo Alto is responsible for approximately 35% of the RWQCP contribution to the project. Hence, the total Palo Alto contribution (including Palo Alto Utilities) to the project is approximately $1,962,500, which consists of approximately $437,500 in cash and $76,250 per year of loan repayment for 20 years.

**TIMELINE**

- Palo Alto Council decision on First Amended Contract June 18, 2007
- State approval of SRF loan May 22, 2007
- Mountain View Council decision on project June 12, 2007
- Palo Alto Council decision on project & award of contracts June 18, 2007
- Construction starts July 2007
- Construction complete December 2008
- Start-up Summer 2009
**POLICY IMPLICATIONS**
Recommendations of this staff report are consistent with City Council’s Sustainability Policy, by joining with the City of Mountain View to reduce waste, expanding the use of sustainable resources, and expanding the water recycling program while achieving a sustainable budget.

**ENVIRONMENTAL REVIEW**
Council adopted a mitigated negative declaration for the project in January 2004.

**ATTACHMENTS**
Attachment A: First Amended and Restated Contract Between the City of Palo Alto and the City of Mountain View for the Mountain View/Moffett Area Reclaimed Water Pipeline Project
Attachment B: Construction Contract with McGuire & Hester
Attachment B1: Bid Summary
Attachment B2: Certification of Nondiscrimination – McGuire & Hester
Attachment C: Contract with URS Corporation
Attachment C1: Certification of Nondiscrimination – URS Corporation
Attachment D: Amendment 2 to Contract C3151060
Attachment E: Resolution
Attachment F: Budget Amendment Ordinance
Attachment G: Original CIP Funding Sources
Attachment I: CIP page for Project WQ-04010

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