

MEETING DATE: 4/20/09

AGENDA ITEM: PUBLIC HEARING AND BUDGET AMENDMENT:
Approve the Final Plans and Specifications and
Approve a Contract with SuperTrap, Inc., without
Conducting a Formal Bidding Process, for the
Firing Range Rehabilitation Project, P-832

ATTACHMENTS

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Meeting Date: 03/09/2009		Item Number: C-8	
AGENDA ITEM: Authorization of Payment of Non-Disputed Outstanding Invoices to Fast-Track Construction Inc. for the Firing Range Rehabilitation Project, P-832			
Contact Person/Dept.: Elaine Jeng/PW		Phone Number: 310-253-5621	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Public Notification: Fast-Track Construction Corporation on March 2 2009; Master E-Mail Notification List (03/04/09)			
Department Approval: Charles D. Herbertson 02/26/2009		City Attorney Approval: Carol Schwab (by H. Baker) (03/02/09)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (03/03/09)		City Manager Approval: Jerry B. Fulwood (03/04/09)	

RECOMMENDATION:

Staff recommends the City Council authorize the payment of \$58,885.85 for non-disputed outstanding invoices to Fast-Track Construction Inc. ("Fast Track") for the Firing Range Rehabilitation Project, P-832

BACKGROUND:

In January 2007 the City Council awarded a design-build contract to Fast Track for the design and construction of the Police Firing Range Project in the amount of \$581,772.25. After the award of the Project, soundproofing design was added. The soundproofing design provided by Fast Track would require the entire project cost to increase to \$1,015,368. While staff anticipated an increase to the Project cost, the final figure was beyond the available budget. More importantly, staff reviewed the proposed soundproofing design and questioned the need for all of the proposed components. Staff solicited the independent architecture firm of McClaren, Wilson and Lawrie Incorporated (MWL) to evaluate the proposed design by Fast Track and provided a peer review. The architect's opinion was that the proposed soundproofing system was over designed and more costly to construct than other soundproofing systems for similar firing ranges. MWL recommended that a more cost effective soundproofing system could be designed and constructed that would meet the existing budget and operational needs of the Police Department.

On August 25, 2008, the City Council terminated the design-build contract with Fast Track and directed staff to re-evaluate the soundproofing design and construction options so that the project can be completed.

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DISCUSSION:

The General Condition provision of the contract document indicates that upon contract termination, the City shall pay the Design-Builder for the work already performed under the Design-Build Contract up to the point of termination. After detailed review of the outstanding invoices from Fast Track, staff determined the outstanding final payment owed to Fast Track is \$58,885.85, including a retention of one of the already paid invoices of \$2,822.52.

Attached to this report is a list of the items for the total outstanding payment of \$58,885.85. Primarily, the final payment is comprised of the direct costs to the project subcontractors (electrical, HVAC, ballistic trap, architectural, and etc). Fast Track disputes this amount, contending they are entitled to the entirety of the general conditions (profit) for their involvement in the project rather than a portion of the general conditions based upon the percentage work completed. Staff disagrees with this assessment.

Staff is recommending the City Council approve the payment of \$2,822.52 for the retention held on an already paid invoice and the non-disputed subcontractor direct cost of \$56,648.61 for a total payment of \$58,885.85. This undisputed amount due to Fast Track has been reduced by \$5,467.23, an amount that is being withheld due to a stop notice that was recently filed by a subcontractor.

FISCAL ANALYSIS:

The Firing Range project (P-832) is funded by Asset Seizure Fund 416. The original budget for this project in FY 2004/05 was \$630,000, which was subsequently increased to \$930,000 in FY 2005/06. To date, approximately \$230,000 has been expended including the demolition phase and lead abatement phase of the Project, which was performed under a different contract with another contractor. Of the total expended amount, approximately \$65,400 was paid to Fast Track during the course of their contract. The remaining Project funding is approximately \$700,000 of which \$102,300 is set aside for the re-design services.

ATTACHMENTS:

A. Breakdown of Final Payment to Fast-Track

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MOTION:

That the City Council:

1. Authorize the payment of \$58,885.85 for non-disputed outstanding invoices to Fast-Track Construction Inc. for the Firing Range Rehabilitation Project, P-832 ; and
2. Authorize the payment of the amount withheld for the Stop Notice (\$5,467.23) upon resolution of the Stop Notice by the contractor.

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Meeting Date: 10/13/08		Item Number: C-10	
AGENDA ITEM: Approval of Professional Services Agreements with McClaren Wilson & Lawrie, Inc. (MWL) and Widom Wein Cohen O'Leary Terasawa (WWCOT) for the Re-Design of the Firing Range Rehabilitation Project, P-832			
Contact Person/Dept.: Elaine Jeng/PW		Phone Number: (310) 253-5621	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Public Notification: Master E-mail Notification List (10/08/08); MWL and WWCOT, via e-mail on (10/08/08).			
Department Approval: Charles D. Herbertson (10/03/08)		City Attorney Approval: Carol Schwab (by H. Baker) (10/06/08)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (10/08/08)		City Manager Approval: Jerry B. Fulwood (10/08/08)	

RECOMMENDATIONS:

Staff recommends the City Council: 1) award of a professional services agreement with McClaren, Wilson, & Lawrie, Inc. (MWL) to re-design project components and provide design-oversight and 2) award of a professional services agreement with Widom Wein Cohen O'Leary Terasawa (WWCOT) to design revised plans and specifications for the construction of the firing range project.

BACKGROUND:

In August 2008, the City Council terminated a design-build contract with Fast-Track due to a proposed change order cost for soundproofing that significantly exceeded the available budget for the firing range project located at the police station. The decision to terminate the Fast Track contract was made following a review conducted by MWL. MWL, based in Phoenix, Arizona, is an architect firm that specializes in the programming, planning, and design of civic and public safety facilities. They have designed more than 100 police stations (many that include firing ranges) and over 90 crime labs/medical examiner facilities throughout North America. James Lewis McClaren, a Registered Architect, specializes in law enforcement, firearms proficiency, and forensic science laboratories. The architect's opinion was that the proposed soundproofing of the firing range is over designed and more costly to construct than other soundproofing systems. It was the recommendation of MWL that a more cost effective soundproofing system can be designed and constructed while still meeting the existing budget and fulfilling the operational needs of the Police Department.

DISCUSSION:

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Given MWL's extensive experience in public safety facilities and their knowledge of the City's project, staff is recommending the hiring of MWL for conceptual re-design and oversight for the construction of the firing range. Based on their proposal, MWL will conduct a thorough review of the completed project plans and identify areas appropriate for re-design. The goals of the re-design will be focused on meeting the intended use of the range based on the Police Department's expressed needs with consideration being given to the available budget. Due to MWL's work load and limited availability, MWL will take the role as the firing range specialist who specifies the parameters of the re-design and convey them to WWCOT for inclusion in the existing project plans. The proposed fee for MWL's services is \$24,000.

WWCOT is the original architect who prepared the construction plans for Fast-Track and is conveniently located in Santa Monica. They are already familiar with the project and WWCOT's involvement will expedite the re-design process. Also WWCOT is a well-known architectural firm that has extensive experience designing projects for municipalities throughout California. WWCOT's proposed fee is \$61,300 and includes fees associated with the redesign of the mechanical, electrical and plumbing work in order to meet the special needs of the firing range.

It is estimated that the re-design will be completed in February/March 2009.

FISCAL ANALYSIS:

The Firing Range Rehabilitation Project is funded by Asset Seizure Fund 416. The original budget for this project in FY 2004-05 was \$630,000, which was subsequently increased to \$930,000 in FY 2005-06. To date, approximately \$230,000 has been expended including the demolition phase of the project. Of the total expended amount, approximately \$65,000 was paid to Fast-Track. The remaining project funding is approximately \$700,000.

With the termination of the design-build contract with Fast-Track, staff expects the final payment to Fast-Track will be an additional \$65,000 (for a total payment to Fast-Track of approximately \$130,000), subject to the City Council's approval, leaving the current firing range project an available budget of approximately \$635,000. The proposed fee for MWL's services is \$24,000. The proposed fee for WWCOT's services is \$61,300. With the proposed combined fees and change order authority (not-to-exceed \$17,000), the project budget can support both contracts with a remaining budget of approximately \$532,700 - \$549,700 (depending on the cost for possible change orders) for the rehabilitation of the firing range.

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ATTACHMENTS:

1. McClaren, Wilson, & Lawrie, Inc., August 25, 2008 proposal
2. Widom Wein Cohen O'Leary Terasawa, September 26, 2008 proposal

MOTIONS:

That the City Council:

- 1) Approve a final payment to Fast-Track in an amount not-to-exceed \$65,000 (for a total payment to Fast-Tract not-to-exceed \$130,000); and,
- 2) Approve a professional services agreement with MWL for conceptual re-design and construction oversight for the Firing Range Rehabilitation Project P-852, in an amount not-to-exceed \$24,000;
- 3) Approve a professional services agreement with WWCOT to design revised construction plans and specifications for the Firing Range Rehabilitation Project P-852, in an amount not-to-exceed \$61,300;
- 4) Authorize the Public Works Director/City Engineer and Police Chief to approve change orders associated with the agreements in an amount not-to-exceed \$17,000, if necessary; and
- 5) Authorize the City Attorney to review/prepare the necessary documents and authorize the City Manager to execute such documents on behalf of the City.

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Meeting Date: 08/25/08		Item Number: A-6	
AGENDA ITEM: Terminate the Design-Build Contract With Fast-Track Construction Corporation for the Firing Range Rehabilitation Project, P-832			
Contact Person/Dept.: Elaine Jeng/PW, Hong Wang/PW		Phone Number: (310) 253-5621, (310) 253-5604	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Public Notification: Master E-Mail Notification List (08/20/08); Fast-Track, via mail on August 15, 2008			
Department Approval: Charles D. Herbertson (08/18/08)		City Attorney Approval: Carol Schwab (by H. Baker) (08/19/08)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (8/20/08)		City Manager Approval: Jerry B. Fulwood (08/20/08)	

RECOMMENDATIONS:

Staff recommends the City Council terminate the design-build contract with Fast-Track Construction Corporation (Fast-Track) for the Firing Range Rehabilitation Project, P-832.

BACKGROUND:

In August 2006, a Request for Proposal was released to solicit bids for the design-build of the Police Department Firing Range rehabilitation project, P-832. There were three proposals received. In January 2007, the City Council awarded a contract with Fast-Track in the amount of \$581,772.25. A pre-design meeting was conducted with Fast-Track and it was brought to staff's attention that the bid documents did not include soundproofing as a part of the project. In February 2007, staff requested Fast-Track to provide a cost proposal from an acoustic engineer to conduct a study of a recommended soundproofing system for the firing range. After several interviews with acoustic engineers, Fast-Track provided a proposal from an acoustic engineering firm in April 2007. Staff directed Fast-Track to proceed with the soundproofing study and it was completed in November 2007.

At the completion of the study, a change order (CCO 3) was presented by Fast-Track to incorporate the recommendations in the soundproofing study to the construction plans. The following are all the change orders requests for the project:

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Contract Change Order 1 (CCO 1)

Staff directed Fast-Track to purchase a wireless target system on behalf of the City through the design-build contract. CCO 1 was approved in the amount of \$19,212 to purchase 5 modular shooting targets.

Contract Change Order 2 (CCO 2)

In April 2007, this change order was approved in the amount of \$20,786 for the acoustical engineering consultant sound proofing study of the firing range.

Contract Change Order 3 (CCO 3)

In December 2007, Fast-Track requested a change order amount of \$36,681.59 and contract extension of 130 calendar days for the additional architectural design fees to incorporate the proposed soundproofing system components in the project construction plans. CCO 3 was not fully approved by staff due to the unreasonable amount of time extension requested with the work.

Contract Change Order 4 (CCO 4)

CCO 4 was submitted in June 2008 in the amount of \$446,926, mostly for the additional cost attributed to labor and material to construct the soundproofing system. CCO 4 by itself nearly doubles the original contract amount. The large amount of CCO 4 was not anticipated by staff. The total cost to construct the firing range as it is currently designed is \$1,015,368.

DISCUSSION:

Staff has solicited an independent architecture firm (McClaren, Wilson and Lawrie, Incorporated¹) with experience in firing range design and construction to evaluate the proposed design and provide a peer review and recommendation to the City. The architect's opinion was that the proposed soundproofing of the firing range is over designed and more costly to construct than other soundproofing systems for

¹ McClaren, Wilson & Lawrie, Inc., based in Phoenix, Arizona, is an architect firm that specializes in the programming, planning, and design of civic and public safety facilities. They have designed more than 100 police stations (many that include firing ranges) and over 90 crime labs/medical examiner facilities throughout North America. James Lewis McClaren, a Registered Architect is specialized in law enforcement, firearms proficiency, & forensic science laboratories. Since 1982, Mr. McClaren has devoted his career to the master planning, programming and design of law enforcement, forensic science and forensic pathology facilities throughout North America.

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similar firing ranges. It is the recommendation of McClaren, Wilson and Lawrie, Inc. that a more cost effective soundproofing system can be designed and constructed while still meeting the existing budget amount and fulfilling the operational needs of the Police Department.

Due to the proposed change order cost that greatly exceeds the available project budget, staff recommends that the City Council terminate its contract with Fast-Track and re-evaluate its design and construction options so that a firing range can be constructed that will both meet the department's needs and budgetary constraints

The General Condition provision of the contract document, Article 14.3, "Termination by City Without Cause" states, "Without limitation upon any of the City's other rights or remedies at law or in equity, the city shall have the option, at its sole discretion and without cause, to terminate the Design-Build Contract, in whole or in part, by giving fourteen (14) Day's written notice to the Design-builder as provided herein." Upon contract termination, the City shall pay to the Design-Builder for the work already performed under the Design-Build Contract.

FISCAL ANALYSIS:

The Police Firing Range project (P-832) is funded by Fund 416, Asset Seizure fund account. The original budget for this project in FY 2004-05 was \$630,000, which was subsequently increased by a total of \$300,000 in FYs 2005-06 and 2007-08. Therefore, the total budget amount is \$930,000. To date, just under \$230,000 has been expended, leaving a balance of just over \$700,000. Of the total amount expended to date, \$65,410 has been expended on the contract with Fast-Track Construction. The remaining amount was spent on Architectural fees for the conceptual design that was used in the Design/Build RFP process, abatement of lead contamination, and demolition of the old firing range. The available funds for the firing range construction will be reduced by the amount the City owes, if any, to Fast-Track for work performed that has not been compensated to date. This amount will be determined through discussions with Fast-Track. The project does not have adequate funding to pay for the construction as it is currently designed.

ATTACHMENTS:

1. Article 14.3 of the General Conditions of the contract documents.

MOTIONS:

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That the City Council:

- 1) Terminate the Police Firing Range Rehabilitation Design-Build contract with Fast-Track Construction Corporation per Article 14.3 of the General Conditions of the contract documents; and
- 2) Authorize the City Attorney to review/prepare the necessary documents for the contract termination and authorize the City Manager to execute such documents on behalf of the City.