

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM**

TO: Members of the Governing Board

SUBJECT: **RESOLUTION FOR RATIFICATION OF CONTRACT
CHANGE ORDER #1 TO HM CONSTRUCTION INC. FOR
THE FAIRFIELD CAMPUS ENTRY SIDEWALK
IMPROVEMENTS PROJECT, RESOLUTION NO. 17/18 - 14**

REQUESTED ACTION:

- Information **OR** Approval
 Consent **OR** Non-Consent

SUMMARY:

On August 2, 2017 the Board approved a contract with HM Construction Inc. for the Fairfield Campus Entry Sidewalk Improvements Project.

During construction, it was determined that additional existing concrete sidewalk will need to be demolished and replaced, some because it is not ADA compliant, and some additional small sections that would otherwise remain between the new replaced sections creating difficulties for aligning the levels of the new sections. Permit costs also exceeded the contract allowance for same.

CONTINUED ON THE NEXT PAGE

STUDENT SUCCESS IMPACT:

- Help our students achieve their educational, professional and personal goals
- Basic skills education
- Workforce development and training
- Transfer-level education
- Other: Update infrastructure that supports classrooms or related College facilities

<i>Ed. Code:</i>	<i>Board Policy:</i>	<i>Estimated Fiscal Impact: \$44,943.45 Measure Q Funds</i>
SUPERINTENDENT'S RECOMMENDATION:		<input checked="" type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL <input type="checkbox"/> NOT REQUIRED <input type="checkbox"/> TABLE
Lucky Lofton Executive Bonds Manager		
PRESENTER'S NAME		
4000 Suisun Valley Road Fairfield, CA 94534		
ADDRESS		Celia Esposito-Noy, Ed.D. Superintendent-President
(707) 863-7855		
TELEPHONE NUMBER		
Vice President, Finance and Administration		December 8, 2017
VICE PRESIDENT APPROVAL		DATE APPROVED BY SUPERINTENDENT-PRESIDENT
December 8, 2017		
DATE SUBMITTED TO SUPERINTENDENT-PRESIDENT		

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SUMMARY:

CONTINUED FROM THE PREVIOUS PAGE

Potential replacement of additional sections of the existing concrete was anticipated in the bid documents, and a unit price for replacement was requested and provided on the bid form.

The Board is requested to approve Change Order #1, in the amount of \$44,943.45 to remove and replace additional 1,663 sf. of existing sidewalk and related curb in the sidewalk extending from the south faculty parking lot to the campus bus stop along the campus entry road. Also included are City of Fairfield permit costs of \$873.95 in excess of the contract allowance and a no cost extension of completion date. In order to not delay construction further and incur additional cost for same, staff approved the Change Order, contingent upon Board ratification.

Because this Change Order exceeds 10% of the value of the construction contract, it is required that the Board of Trustees pass a Resolution to ratify award of the Change Order.

Following is a summary of the Contract:

\$ 318,964.00 Original Contract Amount

\$ 0.00 Previously Approved Change Orders (0)

\$ 44,943.45 Proposed Change Order #1

\$ 363,907.45 New Contract Amount, including this Change Order #1

The Board is asked to ratify approval of this Change Order #1 to HM Construction Inc. in the amount of \$44,943.45 resulting in a new contract amount of \$363,907.45.

The Change Order may be viewed online at: <http://www.solano.edu/measureq/planning.php>.

**RESOLUTION NO. 17/18 - 14
OF THE SOLANO COMMUNITY COLLEGE DISTRICT
DECLARING FUTILITY OF PUBLIC BIDDING FOR ADDITIONAL REMOVAL AND
REPLACEMENT OF SIDEWALK FOR FAIRFIELD CAMPUS ENTRY SIDEWALK
IMPROVEMENTS PROJECT**

WHEREAS, on or about July 18, 2017, the Solano Community College District (“District”) formally and publicly opened a bid for a contract to perform work, including, but not limited to, removal of existing sidewalks, curbs, gutters, and ramps, construction of new sidewalks, curbs, gutters, and ramps, and installation of new street and pedestrian lights, at the District’s Fairfield Campus, located at 4000 Suisun Valley Road, Fairfield, California (“Project”);

WHEREAS, HM Construction, Inc. (“Contractor”) was the lowest responsive, responsible bidder for the Project, and, in response to the bid, on or about August 2, 2017, the District’s Governing Board awarded a contract for the Project to Contractor for Three Hundred Eighteen Thousand, Nine Hundred Sixty-Four Dollars (\$318,964) (“Contract Price”);

WHEREAS, during the course of the Project, an inspection required by the Division of the State Architect (DSA) identified additional sections of the existing sidewalk that need to be removed and replaced for compliance with Americans with Disabilities Act (ADA) accessibility standards;

WHEREAS, to comply with ADA accessibility standards, approximately one thousand six hundred sixty three (1,663) square feet of additional sidewalk and related curb, gutter, and ramp work needs to be removed and replaced to achieve alignment and uniformity of the sidewalk (“Additional Work”);

WHEREAS, on or about December 7, 2017 Contractor issued to the District a proposed change order, under which Contractor would perform the Additional Work for Forty-Five Thousand Dollars (\$44,943.45);

WHEREAS, the City Permit fees exceeded the contract allowance for same by \$873.95:

WHEREAS, Contractor has submitted documentation to the District supporting its costs for performing the Additional Work;

WHEREAS, Contractor’s price to perform the Additional Work is competitively bid as part of the original bid, unit pricing was provided for the cost of additional concrete work per square feet of area;

WHEREAS, if the District were to bid the Additional Work, other resulting bids would likely be higher than the price of Contractor’s proposed change order, because Contractor is already mobilized on the Project;

WHEREAS, having a new contractor perform the Additional Work would result in waste and significant delay, which would be at the expense of the District, while the new contractor mobilizes on the Project;

WHEREAS, having a new contractor perform the Additional Work could create coordination and interference problems with Contractor, resulting in interrelated sections of

sidewalk being poured at different dates that can produce uneven sidewalks and trip hazards over time, which could negatively impact the Project;

WHEREAS, having a new contractor perform the Additional Work could create a potential dispute over the warranty for the surrounding work being performed by Contractor;

WHEREAS, Public Contract Code section 20651, subdivision (b), states that a community college district is required to competitively bid a public works project with a contract value of \$15,000 or more;

WHEREAS, Public Contract Code section 20659, states that the governing board of a community college district “may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of: (a) The amount specified in Section 20651 . . . ; or (b) Ten percent of the original contract price”;

WHEREAS, notwithstanding Public Contract Code sections 20651 and 20659, California law provides a narrow exception to competitive bidding law where such bidding would be futile, undesirable, or impractical and would cause additional delay and cost (*Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631; *Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348), so that “[w]here competitive proposals work an incongruity and are unavailing as affecting the final result, or where they do not produce any advantage . . . a statute requiring competitive bidding does not apply” (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694);

WHEREAS, bidding the Additional Work will not affect the final result of the Project, except to delay completion and increase the cost of the Project;

WHEREAS, bidding the Additional Work will not produce an advantage to the District;

WHEREAS, based on the foregoing, it would be incongruous, futile, and unavailing to solicit bids for the Additional Work; and

WHEREAS, the District therefore desires to execute a change order with Contractor to perform the Additional Work for the price stated above.

NOW, THEREFORE, the Governing Board of the Solano Community College District hereby resolves, determines, and finds the following:

Section 1. The foregoing recitals are true.

Section 2. For the reasons stated above, public bidding of the Additional Work would not produce an advantage to the District, and would produce a net burden and distinct disadvantages to the District.

Section 3. Based on the foregoing, it would be incongruous, undesirable, impractical, futile, and unavailing to publicly bid the Additional Work.

Section 4. The Governing Board hereby approves the change order for Contractor to perform the Additional Work at the Project, without further advertising for or inviting of bids.

Section 5. The District's Superintendent/President, or designee, is authorized to take all steps and perform all actions necessary to execute and implement the change order and to carry out, give effect to, and comply with the terms and intent of this Resolution.

APPROVED, PASSED, AND ADOPTED by the Governing Board, at a regular meeting held on the 20th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

President of the Governing Board
Solano Community College District

Attested to:

Board Secretary
Solano Community College District



Change Order

Solano Community College District
 4000 Suisun Valley Road
 Fairfield, CA 94534
 Tel: 707-864-7189 Fax: 707-207-0423

Swinerton Consulting and Management

Change Order # 1
 Project No.: 17-008
 Date: 12/07/17

DSA File No.: 48-C1
 DSA App. No.: 02-115864

Project: Fairfield Campus Entry Sidewalk Improvements
 4000 Suisun Valley Road
 Fairfield, CA 94534

To: HM Construction
 2129 Drake Lane
 Hercules, CA 94547-5459

The Contract is Changed as Follows:

CPE No.

1.0	Demolition and replacement of additional 1,663sf of existing sidewalk (and curb where required) @ \$26.50/sf. Existing sidewalk sections do not comply with ADA cross slope requirements.	\$44,069.50
2.0	City of Fairfield encroachment permit costs in excess of the \$2,000.00 contract allowance.	\$873.95
3.0	Extend contract completion date to be January 26, 2018.	\$0.00

TOTAL COST OF CHANGE ORDER	ADD	\$44,943.45
FINAL CHANGE ORDER AMOUNT	Deduct	
	\$	44,943.45

Original Contract Sum:	\$	318,964.00
Total change By Previous Change Orders:	\$	-
Contract Sum Prior to This Change Order:	\$	318,964.00
Original Contract Sum will be Increased by This Change Order:	\$	44,943.45
The New Contract Sum Including This Change Order Will Be:	\$	363,907.45
Original Contract Completion Date:		11/10/2017
The New Contract Completion Date Will Be:		2/7/2018
Contract Time Will be Changed by This Change Order:		89 Days
The date of substantial completion as of the of this change order is		1/26/18

ENGINEER: _____
 CEOR CSW/Stuber-Stroeh Engineering Group, Inc.
 45 Leveroni Court
 Novato, CA 94949

Date: _____

CONTRACTOR: _____
 DBE HM Construction, Inc.
 2129 Drake Lane
 Hercules, CA 94547-5459

Date: _____

(Affix stamp here)

OWNER: _____
 Lucky Lofton
 Executive Bonds Manager
 Solano Community College District

Date: _____