

MOUNTAIN VIEW-LOS ALTOS HIGH SCHOOL DISTRICT

RESOLUTION NO. 23/24-17

**RESOLUTION DECLARING THE FUTILITY OF PUBLIC BIDDING FOR
EARTHWORK & PAVING TRADES SERVICES FOR LOS ALTOS HIGH SCHOOL
STUDENT SERVICES BUILDING AND RATIFYING CHANGE ORDER APPROVAL
FOR THAT WORK**

WHEREAS, the Board of Trustees (“Board”) of the Mountain View-Los Altos High School District (“District”) formally and publicly opened bids for Bid Package B – Earthwork & Paving Trades (“Bid Package B”) for the Los Altos High School Student Services Building Project (“Project”), located at Los Altos High School, 201 Almond Avenue, Los Altos, California 94022; and

WHEREAS, of the six (6) bids submitted for Bid Package B, McGuire & Hester was determined to be the lowest responsive responsible bidder, and on or about April 26, 2021, the Board awarded a contract to perform the work for Bid Package B on the Project in the amount of Six Hundred Twenty-Five Thousand Three Hundred Seventy-Eight Dollars (\$625,378.00); and

WHEREAS, since commencement of the Project, there were added costs due to demolition required to replace curb and asphalt that had been damaged throughout the course of construction (PCO 152), cleanup of misc. debris and material as needed to continue with site grading (PCO 158), re-establishing grade at various areas throughout the site due to multiple contractors performing out of sequence work to maintain the construction schedule (PCO 161), removal of the temporary construction entrance and reinstallation of asphalt paving (PCO168), additional costs to complete parking lot improvements that exceeded the \$5k contract allowance (PCO179), removal of a storm drain line that was in conflict with the building foundation/spread footings (PCO 180), and grading adjustments needed to comply with ADA requirements due to conflicts with design grades (PCO 183); Via Change Orders #3B and 5B for McGuire & Hester; and

WHEREAS, the Project adjustments represent additions in scope and cost for services to be performed on the Project pursuant to Bid Package B (“Additional Work”); and

WHEREAS, the Project adjustments are integral and inseparable from, and inherent to, the work already in progress on the Project; and

WHEREAS, the Contractor issued documentation supporting final pricing for the integral and additional necessary Earthwork & Paving work to the Project via Potential Change Orders (“PCOs”) #152, 158, 161, 168, 179, 180, and 183 (McGuire & Hester – COs#3B and 5B) totaling \$85,642.83 which brings the total current cost of all approved

and pending change orders to \$146,057.69 (23.36% of the original contract amount); and

WHEREAS, requesting bids for the Additional Work, and having another contractor perform the adjusted Work, would result in waste and delay on the Project, which would ultimately be at the expense of the District; and

WHEREAS, bringing in a new Contractor to perform the Additional Work would have created coordination and interference problems at the Project, for example, the need to perform the work within the same area, and would expose the District to liability for delay and/or disruption damages; and

WHEREAS, bringing in a new contractor to perform the Additional Work could have created a potential dispute over the warranty for that work and the surrounding work being performed by the Contractor; and

WHEREAS, bringing in a new contractor (or contractors) to perform the Bid Package B Work pursuant to the Project adjustments would potentially expose the District to significant cost increase, since McGuire & Hester is already familiar with and mobilized on the Project site and any other bids are likely to result in increased costs to the District; and

WHEREAS, it is imperative to perform the Additional Work immediately to prevent delay to the Project, which may expose the District to a significant increase in cost; and

WHEREAS, California courts allow a narrow exception to the public bidding law in circumstances in which public bidding would be futile, undesirable, or impractical and would cause additional delay and additional cost; (See, e.g., Los Angeles Dredging Company v. City of Long Beach (1930) 2 Cal. 348; Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631, 645.); and

WHEREAS, notwithstanding the requirements of Public Contract Code sections 20111(b) or 20118.4(a), California law provides that, “where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply.” (Hiller v. City of Los Angeles (1961) 197 Cal.App.2d 685, 694); and

WHEREAS, bidding the Additional Work for Bid Package B will not affect the final result to the District except to further increase the cost of the Project; and

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

NOW THEREFORE, the Governing Board of the Mountain View-Los Altos High School District hereby resolves, determines, and finds the following:

Section 1. That the above recitals are true and correct.

Section 2. For the reasons stated above, public bidding of the Additional Work for Project Bid Package B 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, futile, and unavailing to attempt to bid the Additional Work for Project Bid Package B.

Section 4. The Board hereby ratifies McGuire & Hester - COs#3B and 5B to perform the Additional Work, without further advertising for or inviting of bids.

Section 5. The Board hereby authorizes the District's Superintendent, or her designee, to take all steps and perform all actions necessary to execute and implement McGuire & Hester - COs#3B and 5B.

APPROVED, PASSED AND ADOPTED this 13th day of November, 2023 by the following vote of the Board of Trustees of the Mountain View-Los Altos High School District:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing resolution was duly introduced, passed, and adopted as stated.

Dr. Nellie Meyer
Superintendent
Mountain View-Los Altos High School District



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Los Altos and Los Altos Hills

MOUNTAIN VIEW LOS ALTOS HIGH SCHOOL DISTRICT

BOARD OF TRUSTEES

Thida Cornes
Sanjay Dave
Phil Faillace, Ph.D.
Esmeralda Ortiz
Catherine Vonnegut

SUPERINTENDENT

Dr. Nellie Meyer

Date: 08/14/23

CHANGE ORDER #3B

Contractor Name: McGuire & Hester
Contract Name: Bid Package B, Earthwork & Paving Trades
Project Name: LAHS Student Services Building
DSA Application Number: 01-119006
Contract Number: C21-080

PCO #	Reason for Change	CCD #	RFI #	Amount of Change
151	Remove and dispose of an existing electrical vault that conflicts with the footing for the walkway ramp wall at the north side of the Student Services Building. After the vault has been removed, Contractor shall provide backfill and compaction as needed to raise the grade to the required wall footing elevation.	N/A	289	\$ 4,300.68
152	Demo approx. 150 LF of existing curb/asphalt that has been damaged by heavy equipment use throughout the course of construction and provide asphalt patch-back paving after the new concrete curb has been installed. New curb installation to be installed by the Site Concrete Contractor under a separate Work Directive/Change Order.	N/A	N/A	\$ 14,717.19
168	Remove the temporary construction entrance, offhaul & dispose of rock and debris, recompact subgrade and install new asphalt paving.	N/A	N/A	\$ 17,682.79
177	Provide labor and material on a premium time to add signage and wheel stops and perform striping of parking lot on Saturday 07/29/23. This work needs to be done on a Saturday in order to keep the parking lot traffic away so that the striping does not look faded or walked upon. This work will be done on an allowance B1 (Parking lot improvements: Wheel stops, painting, and striping) for the amount of \$5,000.00 and is not an add to the contract value.	N/A	N/A	\$ 0.00
178	Proposes to work on a Saturday on a premium time to install slurry seal for the parking lot. This work needs to be done on a Saturday in order to keep the traffic away from the parking lot for a smooth completion. The cost includes the scope of work and premium time. M&H will provide all labor and material in order to complete this work. The cost represents premium time only.	N/A	N/A	\$ 2,359.79
179	Provide labor, equipment, and material to complete additional parking lot improvements that exceed the original \$5k contract allowance (previously approved as WD #177).	N/A	N/A	\$ 5,175.78



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Los Altos High School Student Services Building
McGuire & Hester Change Order #3B
08/14/2023

180	Provide labor and equipment as needed to remove a storm drain line in conflict with the foundation/footings on the south side of the student services building.	N/A	96	\$ 21,167.69
183	Provide labor, equipment, and materials to complete grading adjustments for the sidewalk revisions at the 200 Wing due to issues with the design grades as described in CCD #57	57	N/A	\$ 12,686.92
Total of Change Order #3B				\$78,090.84

Original Contract Amount: \$ 625,378.00

Change Order #1B Amount: \$ 23,126.38

Change Order #2B Amount: \$ 5,557.89

Change Order #3B Amount: \$ 78,090.84

Revised Contract Amount: \$ 732,153.11

Mountain View-Los Altos H.S. District's Signature:	DocuSigned by: <i>Michael Mathiesen</i> 9777007C41D147B...	Date: 8/18/2023
Program Manager's Signature:	DocuSigned by: <i>Patrick Maramelias</i> 7076FA3F32AB49A...	Date: 8/18/2023
Architect's Signature:	<i>W. G. Smith</i>	Date: 8/17/2023
Contractor's Signature:	DocuSigned by: <i>David Buffa</i> 7C13729940914A1...	Date: 8/18/2023





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Date: 09/26/23

CHANGE ORDER #5B

Contractor Name: McGuire & Hester
Contract Name: Bid Package B, Earthwork & Paving Trades
Project Name: LAHS Student Services Building
DSA Application Number: 01-119006
Contract Number: C21-080

PCO #	Reason for Change	CCD #	RFI #	Amount of Change
158	Provide cleanup of misc. construction debris and materials as needed to continue grading the remaining areas around the building. Cleanup is to be performed at the direction of the Construction Manager and tracked on a T&M basis. If it is determined that other contractor(s) working onsite are responsible for the debris, they will be directed to perform their own cleanup per their contract requirements.	N/A	N/A	\$ 3,440.39
161	Provide additional labor & equipment to re-establish grade at various areas throughout the site that has been disrupted by other contractors performing out of sequence work as needed to maintain the construction schedule.	N/A	N/A	\$10,772.07
171	Provide premium time labor for Saturday, July 1st as needed to progress the site grading and maintain the construction schedule.	N/A	N/A	\$ 2,333.34
181	Provide overtime labor on July 20, 21, & 22 as needed to progress the site grading and maintain the construction schedule. The District will cover the cost difference for premium time rates.	N/A	N/A	\$ 2,887.00
Total of Change Order #5B				\$19,432.80

Original Contract Amount:	\$	625,378.00
Change Order #1B Amount:	\$	23,126.38
Change Order #2B Amount:	\$	5,557.89
Change Order #3B Amount:	\$	78,090.84
Change Order #4B Amount:	\$	19,849.78
Change Order #5B Amount:	\$	19,432.80
Revised Contract Amount:	\$	771,435.69



GREEN BUSINESS

1299 Bryant Avenue, Mountain View, California 94040-4599

Phone: (650)940-4650



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Los Altos High School Student Services Building
McGuire & Hester Change Order #5B
09/26/2023

Mountain View-Los Altos H.S. District's Signature:	DocuSigned by: <i>Michael Mathiesen</i> 9777007C41D147B...	Date: 9/29/2023
Program Manager's Signature:	DocuSigned by: <i>Patrick Maramelias</i> 7076FA3F32AB49A...	Date: 9/29/2023
Architect's Signature:	<i>W. G. ...</i>	Date: 9/17/2023
Contractor's Signature:	DocuSigned by: <i>David Buffa</i> 7C13729940914A1...	Date: 9/29/2023

