

RESOLUTION No. 13-06

**CITY OF MILLBRAE, COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILLBRAE ACCEPTING
THE WATER POLLUTION CONTROL PLANT RENOVATION PROJECT AS
COMPLETE AND AUTHORIZING RELATED ACTIONS**

WHEREAS, on September 22, 2009 the City Council adopted Resolution 09-66 awarding a construction contract in the amount of \$20,465,000 to West Bay Builders (WBB) for the renovation of the Millbrae Water Pollution Control Plant and the City issued a Notice to Proceed to WBB on October 14, 2009; and

WHEREAS, sixty-eight (68) contract change orders totaling \$2,262,071 were issued to West Bay Builders throughout the contract term; and

WHEREAS, the total contract price including the cost of all contract change orders is equal to \$22,727,071; and

WHEREAS, the construction project presented challenges from the outset with disputes over the compliance of critical equipment, WBB's submission of numerous Requests for Information and Potential Change Orders, various issues and disputes between the contractor and its subcontractors, and the need for various change orders to address design and other issues; and

WHEREAS, over the course of the project, the City negotiated several settlements with WBB to address pending claims of both parties arising out of project delays, concerns with the contract work satisfying specification requirements, design changes, and liquidated damages; and

WHEREAS, the City has been negotiating with WBB since March 2012 over the third and final settlement pursuant to which the parties have agreed to a \$325,000 increase in compensation under the construction contract, further extension of contract duration until November 2012, and a full indemnity to the City relative to any future claims or lawsuits related to the project; and

WHEREAS, WBB has now completed the Water Pollution Control Plant Renovation Project and following acceptance of the project, the contract provides protection to the City in the form of a required one-year Warranty and a two-year Maintenance Bond from WBB; and

WHEREAS, due to the 13 month delay in completing the renovation project, the existing agreements for construction management services with URS and design services with Kennedy Jenks will also need to be amended to ensure continuous support for the renovation project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Millbrae takes the following actions:

1. Approves the Settlement Agreement and release of all claims with West Bay Builders as presented requiring the payment of an additional \$325,000 under the construction contract with the City receiving from WBB indemnity protection as to pending and future claims and lawsuits related to the project;
2. Accepts the Water Pollution Control Plant Renovation Project as complete and authorizes the filing of a Notice of Completion;
3. Approves amending the Construction Management Services Consulting Agreement with URS to increase the total compensation by \$79,000, which amount is included in the additional authorized project budget;
4. Authorizes amending the Design Services Consulting Agreement with Kennedy Jenks to increase total compensation by \$62,000, which amount is included in the additional authorized project budget; and
5. Authorizes an increase to the project budget in the amount of \$310,500 from the Sanitation Enterprise Fund, for the purpose of covering all of the project costs, including the additional costs specified above.

REGULARLY PASSED and adopted this 26th day of February, 2013.



MAYOR

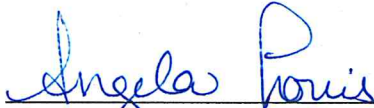
ATTEST:



CITY CLERK

I do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Millbrae this 26th day of February 2013, by the following vote:

AYES:	COUNCILMEMBERS:	Papan, Holober, Colapietro, and Gottschalk
NOES:	COUNCILMEMBERS:	Lee
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None


CITY CLERK