

AMENDED IN COMMITTEE

7/15/15

FILE NO. 150649

RESOLUTION NO.

1 [Accept and Expend Grant - Federal Highway Bridge Replacement and Rehabilitation
2 Program - 4th Street Bridge - \$11,420,360]

3 **Resolution retroactively authorizing Public Works to accept and expend a grant in the**
4 **amount of \$11,420,360 from the Federal Highway Bridge Replacement and**
5 **Rehabilitation Program - 4th Street Bridge for reimbursement of eligible project and**
6 **settlement costs incurred by the City and County of San Francisco for the period of**
7 **January 1, 2007, through January 12, 2012.**

8
9 WHEREAS, Construction of the 4th Street Bridge Project was substantially complete
10 on May 31, 2006, and the bridge was opened to traffic in August 2006; and

11 WHEREAS, In February 2008, the contractor, Mitchell Engineering/Obayashi
12 Corporation, Joint Venture, (MEOC), filed a lawsuit against the City for direct costs and delay
13 damages due to unforeseen conditions; and

14 WHEREAS, In January 2012, the Board of Supervisors approved an ordinance, on file
15 with the Clerk of the Board of Supervisors in File No. 111287, which authorized settlement of
16 the lawsuit and payment of \$14,950,000 from the City to MEOC; and

17 WHEREAS, The ordinance authorized the Director of Public Works to apply for
18 reimbursement from Caltrans for eligible costs; and

19 WHEREAS, Caltrans and the Federal Highway Administration have reviewed the
20 claims and project records, consulted with the US Department of Transportation and Inspector
21 General's Office, and approved a reimbursement of \$11,420,360; and

22 WHEREAS, In February 2015 the City received payment from Caltrans in the amount
23 of \$11,420,360; and

24 WHEREAS, Receipt of the grant reimbursement requires retroactive acceptance by the
25 Board of Supervisors; now, therefore, be it

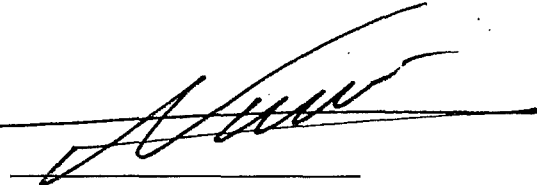
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RESOLVED, That the Board of Supervisors authorizes the Department of Public Works to retroactively accept and expend \$11,420,360 in Federal grant funds for the Fourth Street Bridge Seismic Retrofit & Rehabilitation Project; and, be it

FURTHER RESOLVED, That the the Department of Public Works is authorized to record the legal settlement in the Fourth Street Bridge Project account with the intent to reimburse the general fund for eligible settlement costs; and, be it

FURTHER RESOLVED, That the Director of Public Works or his designee is authorized to execute all documents related to the project with Caltrans.

Recommended:



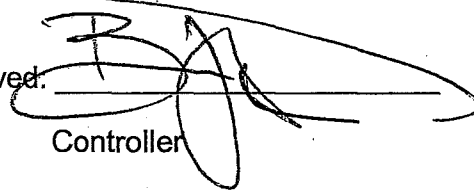
Mohammed Nuru
Director of Public Works

Approved:



for Mayor

Approved:



Controller

<p>Item 5 File 15-0649</p>	<p>Department: General Services Agency - Department of Public Works (DPW)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution authorizes DPW to retroactively accept and expend \$11,420,360 in Federal Highway Bridge Replacement and Rehabilitation Program grant funds in order to reimburse the City for a portion of the cost of its settlement with Mitchell Engineering/Obayashi Corporation, Joint Venture, (MEOC), its principal contractor for the 4th Street Bridge. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • In 2012, the Board of Supervisors authorized a \$14,950,000 settlement with MEOC, for direct costs and delay damages associated with the 4th Street Bridge Project. The Board also directed DPW to apply for eligible reimbursements from Caltrans. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The Federal Highway Administration (FHWA) authorized a grant of \$11,420,360 equal to 80 percent of \$14,275,450 in costs eligible for reimbursement by FHWA. Eligible costs consist of MEOC settlement costs and legal expenses, less costs related to transit (rather than highway) uses. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • Amend the proposed resolution to state on page 1, line 21, that the correct grant amount is \$11,420,360, and not \$11,168,368. • Approve the proposed resolution as amended. 	

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

City Administrative Code Section 10.170-1 states that accepting Federal, State, or third-party grant funds in the amount of \$100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

Background

Before construction of the 4th Street Bridge Seismic Retrofit and Rehabilitation Project was completed and opened to traffic in 2006, the project experienced significant delays and cost overruns. In 2008, the principal contractor, Mitchell Engineering/Obayashi Corporation, Joint Venture, (MEOC), filed a lawsuit against the City for direct costs and delay damages. In January 2012, the Board of Supervisors approved an ordinance authorizing a settlement with and payment to MEOC in the amount of \$14,950,000.

The ordinance also directed the Director of the Department of Public Works (DPW) to apply for reimbursement from Caltrans for eligible costs. Caltrans and the Federal Highway Administration (FHWA) agreed to reimburse the City \$11,420,360, or 80 percent of the \$14,275,450 in costs deemed eligible for reimbursement, as detailed in Table 1 below. The City received the payment in February 2015.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution authorizes DPW to retroactively accept and expend \$11,420,360 in Federal Highway Bridge Replacement and Rehabilitation Program grant funds in order to reimburse the City for a portion of the cost of its settlement with MEOC, its principal contractor for the 4th Street Bridge.

The proposed resolution should be amended to state on page 1, line 21, that the correct grant amount is \$11,420,360, and not \$11,168,368.

FISCAL IMPACT

The Federal grant amount of \$11,420,360 is equal to 80 percent of the settlement costs incurred by the City for the 4th Street Bridge Project that were deemed eligible for reimbursement, or \$14,275,450, as shown in Table 1 below.

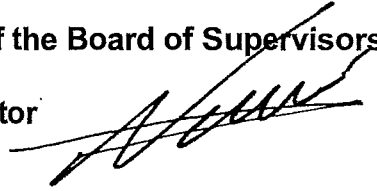
Table 1: Federal Grant Amount to Be Received By City

Total Settlement Amount	14,950,000
Additional Legal Costs	1,660,171
Portion of Settlement Costs Related to Non-Highway Uses ¹	(2,334,721)
Total Costs Allowable for Reimbursement	14,275,450
Federal Grant Amount (80% of Allowable Reimbursement Amount)	11,420,360

RECOMMENDATIONS

1. Amend the proposed resolution to state on page 1, line 21, that the correct grant amount is \$11,420,360, and not \$11,168,368.
2. Approve the proposed resolution as amended.

¹ Costs related to transit uses, including larger steel pipe piles to allow Muni light rail vehicles to use the bridge and the strengthening of the movable steel span to hold the light rail tracks, are eligible for reimbursement by SF Municipal Transportation Agency (SFMTA) and Caltrans. SFMTA has agreed to pay the City this portion of the settlement costs.

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mohammed Nuru, Director 
DATE: June 1, 2015
SUBJECT: Accept and Expend Resolution for 4th Street Bridge
Legal Settlement Reimbursement
GRANT TITLE: Federal Highway Bridge Replacement and Rehabilitation
Program

Attached please find the original* and 1 copy of each of the following:

Proposed grant resolution; original* signed by Department, Mayor,
Controller

Grant information form, including disability checklist

Grant budget

Grant application

Grant award letter from funding agency

Ethics Form 126 (applicable)

Contracts, Leases/Agreements (if applicable)

Other (Explain): Copy of settlement payment, #05565164

Special Timeline Requirements:

Departmental representative to receive a copy of the adopted resolution:

Name:

Phone:

Interoffice Mail Address:

Certified copy required Yes

No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

File Number: _____
(Provided by Clerk of Board of Supervisors)

Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: Federal Highway Bridge Replacement and Rehabilitation Program – 4th St Bridge Legal Settlement
2. Department: Public Works
3. Contact Person: Simone Jacques Telephone: 554-6912
4. Grant Approval Status (check one):
 Approved by funding agency Not yet approved
5. Amount of Grant Funding Approved or Applied for: \$11,420,360
6. a. Matching Funds Required: \$ 2,855,090
b. Source(s) of matching funds (if applicable): General Fund
7. a. Grant Source Agency: Federal Highway Administration (FHWA)
b. Grant Pass-Through Agency (if applicable): Caltrans
8. Proposed Grant Project Summary:

CONTRACT CLAIM AWARD (SETTLED AMOUNT)	\$ 14,950,000
Non-Participating Muni Share	\$ (2,334,721)
TOTAL PARTICIPATING CONSTRUCTION SETTLEMENT	\$ 12,615,279
Claims Defense Costs for consultant services, engineering, project management and attorneys	\$ 1,660,171
TOTAL PARTICIPATING AMOUNT	\$ 14,275,450
Federal Share (80%)	\$ 11,420,360

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: n/a End-Date: n/a

10.
 - a. Amount budgeted for contractual services: These funds are reimbursing legal settlement costs paid by the city and County of San Francisco related to the 4th Street Bridge Seismic Retrofit project.
 - b. Will contractual services be put out to bid? n/a
 - c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? n/a
 - d. Is this likely to be a one-time or ongoing request for contracting out? n/a

11. a. Does the budget include indirect costs?
 Yes No
- b. If yes, how much? \$60,809.47
- c. How was the amount calculated? Amount was calculated using the Department's indirect cost plan
- d. If no, why are indirect costs not included?
 Not allowed by granting agency To maximize use of grant funds on direct services
 Other (please explain):
- e. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:

This grant is reimbursing legal settlement costs paid by the city and County of San Francisco related to the 4th Street Bridge Seismic Retrofit project. The project was completed in 2006 and the legal settlement paid in 2012.

****Disability Access Checklist***(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s) | <input type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s) | <input checked="" type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s) | <input type="checkbox"/> New Structure(s) | |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

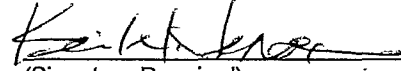
KEVIN W. JENSEN

(Name)

ADA / DISABILITY ACCESS COORDINATOR

(Title)

Date Reviewed: 26 MAY 2015


(Signature Required)

Department Head or Designee Approval of Grant Information Form:

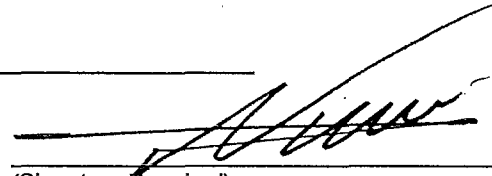
Mohammed Nuro

(Name)

Director of Public Works

(Title)

Date Reviewed: 5/29/15


(Signature Required)

DEPARTMENT OF TRANSPORTATION
 DIVISION OF ACCOUNTING
 LOCAL PROGRAM ACCOUNTING BRANCH

FINANCE LETTER

Date: 12/12/2014
 Agency: 04-SF-0-CR
 Project No: STPL2-5934(080)
 EA No: 04-928644
 04-072304

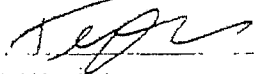
Attention: Adam Ambrosini

ADW ID 040000 1925LN

FINANCE ITEMS	PRO RATA OR LUMP SUM	TOTAL COST OF WORK	FEDERAL PART. COST	FED. REIMB. %	NON-FED FUNDS Q120	FED FUNDS SEISMIC 3300/BMS0	FED FUNDS SEISMIC Q100/BMDD	FED FUNDS SEC 112 (DEMO) LTR0	HRP FED FUNDS M001	STIP HRRR MATCH	OTHER STIP FUNDS	STATE SEISMIC MATCH	LOCAL FUNDS	OTHER
Environmental Studies & Permits	Pro Rata	\$1,673,819.00	\$1,349,231.00	80.00%	\$562,702.00	\$0.00	\$615,864.00	\$0.00	\$0.00	\$67,918.00	\$55,033.00	\$126,970.00	\$243,262.00	\$0.00
Environmental Studies & Permits	Pro Rata	\$200,000.00	\$200,000.00	88.53%	\$0.00	\$177,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$22,940.00	\$0.00	\$0.00
Plans, Specifications & Estimates	Pro Rata	\$1,746,595.00	\$1,093,783.00	60.00%	\$557,835.00	\$0.00	\$317,180.00	\$0.00	\$0.00	\$94,000.00	\$144,000.00	\$79,299.00	\$554,271.00	\$0.00
Utility Relocation Costs	Pro Rata	\$195,655.00	\$42,000.00	80.00%	\$24,800.00	\$0.00	\$24,800.00	\$0.00	\$0.00	\$6,000.00	\$0.00	\$6,200.00	\$136,655.00	\$0.00
Contract Items: \$36,632,307														
Total: \$36,632,307														
Construction	Pro Rata	\$36,632,309.91	\$31,178,452.89	80.00%	\$7,863,261.38	\$0.00	\$7,400,014.19	\$0.00	\$9,868,694.12	\$1,913,483.00	\$2,106,786.00	\$1,799,172.00	\$5,870,272.22	\$0.00
Agency Construction Engineering	Pro Rata	\$15,316,882.88	\$5,836,720.00	80.00%	\$1,587,972.00	\$0.00	\$1,603,531.00	\$0.00	\$1,279,474.35	\$398,983.00	\$2,482,842.00	\$450,587.00	\$7,335,283.57	\$0.00
Agency Construction Engineering	Pro Rata	\$1,485,000.00	\$1,485,000.00	100.00%	\$0.00	\$0.00	\$0.00	\$1,484,999.98	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Force Account	Pro Rata	\$763,836.03	\$591,337.00	80.00%	\$23,863.00	\$0.00	\$441,406.00	\$0.00	\$0.00	\$5,918.00	\$0.00	\$98,481.00	\$194,370.00	\$0.00
Totals:		\$67,918,194.80	\$41,717,324.58	80.00%	\$10,410,923.38	\$177,000.00	\$10,562,223.19	\$1,484,999.98	\$11,148,168.47	\$2,484,290.00	\$4,769,716.00	\$2,585,649.00	\$14,334,164.77	\$0.00

Fed. Partic: 72.15%

This Finance Letter was created based on specific financial information provided by the responsible local agency. The following encumbrance history is prepared by Local Assistance Accounting Office and is provided here for local agency's information and action.

Signature: 
 Title: District Area Engineer

For questions regarding finance letter, contact:
 Printed Name: Jimmy Panmai
 Telephone No: 510-622-5910

Remarks: SEQ 14 rebillgate fund for invoice payment

AA
 1-6-15

1467

AMENDMENT MODIFICATION SUMMARY - (E-76)

CALIFORNIA DEPARTMENT OF TRANSPORTATION

FEDERAL AID PROGRAM

DLA LOCATOR: 04-SF-0-CR
 PREFIX: STPLZ
 PROJECT NO: 5934(080)
 SEQ NO: 14
 STATE PROJ NO: 04928644L
 AGENCY: SAN FRANCISCO
 ROUTE: NA
TIP DATA
 MPO: MTC
 FSTIP YR: 06/07
 STIP REF: CTIPS# 206-0000-0640
 DISASTER NO:
 BRIDGE NO'S: 34C0027

PROJECT LOCATION:
 FOURTH ST BRIDGE (CHINA BASIN) BR NO 34C-0027
 TYPE OF WORK:
 SEISMIC RETROFIT & HBRR REHAB_
 FED RR NO'S:
 PUC CODES:
 PROJ OVERSIGHT: DELEGATED/LOCAL ADMIN
 ENV STATUS / DT: FONSI 04/08/2002
 RW STATUS / DT: 3 06/11/2002
 INV RTE:
 BEG MP: 0
 END MP: 0

PREV AUTH / AGREE DATES:

PE: 09/15/1998
 RW: 06/11/2002
 CON: 08/01/2002
 SPR:
 MCS:
 OTH:

PROG CODE	LINE NO	IMPV TYPE	FUNC SYS	URBAN AREA	URB/RURAL	DEMO ID
33D0	10	15	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
LY60	31	17	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
M001	32	14	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
M001	33	17	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q100	11	15	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q100	20	16	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q100	30	14	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q100	31	17	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q120	12	15	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q120	21	16	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q120	30	14	P	SAN FRANCISCO-OAKLAND	URBAN	CA766
Q120	31	17	P	SAN FRANCISCO-OAKLAND	URBAN	CA766

FUNDING SUMMARY

PHASE	PROJECT COST	FEDERAL COST	AC COST
PE	PREV. OBLIGATION	\$3,505,252.00	\$2,115,508.50
	THIS REQUEST	\$15,162.00	\$15,162.50
	SUBTOTAL	\$3,520,414.00	\$2,130,671.00
RW	PREV. OBLIGATION	\$198,204.00	\$49,148.62
	THIS REQUEST	\$451.00	\$451.38
	SUBTOTAL	\$198,655.00	\$49,600.00
CON	PREV. OBLIGATION	\$24,948,505.00	\$20,166,038.47
	THIS REQUEST	\$29,249,320.80	\$11,397,768.37
	SUBTOTAL	\$54,197,825.80	\$31,563,806.84
TOTAL:	\$57,916,894.80	\$33,744,077.84	\$0.00

STATE REMARKS

HISTORICAL COMMENTS

04-SF-0-CR;STPLZ-5934(080);"EXEMPT" Project;HBRR/SEISMIC Bridge No. 34C-0027.

COST	TOTAL	PART	PART	PART	PART
SUMMARY	COST	Q120	33D0/BMS0	Q100/BMD0	SEC 112
PE (P)	3,047,041	1,082,212	200,000	1,041,343	0
PE (T)	739,931	318,459	0	0	0
RW (P)	116,114	31,000	0	31,000	0
RW (T)	187,208	0	0	0	0
CN (P)	24,864,479	11,254,765	0	10,483,644	0

FEDERAL REMARKS

AUTHORIZATION

AUTHORIZATION TO PROCEED WITH REQUEST: OTH
FOR: INACTIVE REOBL
DOCUMENT TYPE: AMOD

PREPARED IN FADS BY: PANMAI, TEPPITAK
REVIEWED IN FADS BY: YANG, ALBERT
SUBMITTED IN FADS BY: AMBROSINI, ADAM
PROCESSED IN FADS BY: HUEY, SHUN
APPROVED IN FMIS BY: TASIA PAPAJOHN

ON 12/31/2014 622-5910
ON 12/31/2014 651-0015
ON 01/08/2015 FOR CALTRANS
ON 01/08/2015 FOR FHWA
ON 01/14/2015

SIGNATURE HISTORY FOR PROJECT NUMBER 5934(080) AS OF 03/16/2015

FHWA FMIS 4.0 SIGNATURE HISTORY

<u>MOD #</u>	<u>SIGNED BY</u>	<u>SIGNED ON</u>
7	SHUN HUEY	01/08/2015
	PETER M. PANGILINAN	01/14/2015
	TASIA PAPAJOHN	01/14/2015
6	TASIA PAPAJOHN	03/25/2014
	TASIA PAPAJOHN	03/25/2014
	RODNEY WHITFIELD	03/26/2014
5	SHUN HUEY	03/21/2014
	PETER M. PANGILINAN	03/21/2014
	RODNEY WHITFIELD	03/21/2014
4	SHUN HUEY	08/20/2013
	PETER M. PANGILINAN	08/20/2013
	TASIA PAPAJOHN	08/20/2013
3	JERILYNN FOGLE	08/16/2007
	JERILYNN FOGLE	08/16/2007
	VENESHIA L. SMITH	08/17/2007
2	LORI S. WALLACE	05/12/2004
	LORI S. WALLACE	05/12/2004
	DIANE R. TEECE	05/12/2004
1	LORI S. WALLACE	08/15/2002
	LORI S. WALLACE	08/15/2002
	TYANN DECHAMBEAU	08/15/2002
0	CONVERTED FROM FMIS-3	
	CONVERTED FROM FMIS-3	
	CONVERTED FROM FMIS-3	

FHWA FMIS 3.0 SIGNATURE HISTORY

<u>MOD #</u>	<u>DOCUMENT TYPE</u>	<u>SIGNED ON</u>
2	AMEND MOD	11/06/2000
1	AMEND MOD	06/22/2000
0	AUTH AGR	12/01/1998

CALTRANS SIGNATURE HISTORY

<u>DOCUMENT TYPE</u>	<u>SIGNED BY</u>	<u>SIGNED ON</u>
AMEND/MOD	AMBROSINI, ADAM	01/08/2015

1469

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - VIEW AT AN ANGLE



STATE OF CALIFORNIA 05-565164

WARRANT NUMBER

THE TREASURER OF THE STATE WILL PAY OUT OF THE

FUND NO. 0048 FUND NAME TRANSPORTATION REV ACCO


IDENTIFICATION NO.

2660 MO. 01 DAY 30 YR. 2015

90-1342/1211
05565164

TO: 565164
--- CITY & COUNTY OF SAN FRANCISCO

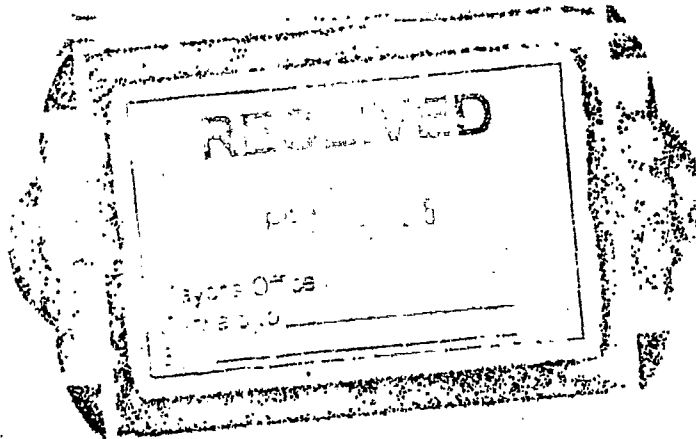
DOLLARS	CENTS
\$11420360	05

Betty T. Yee

 BETTY T. YEE

CALIFORNIA STATE CONTROLLER

FORM 04-PR (2-97) CONTROLLERS WARRANT

⑆121113423⑆ 05565164⑈



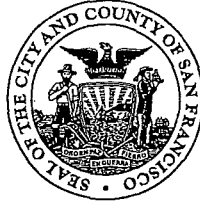
CITY & COUNTY
 CONTROLLER'S
 2015 FEB 27 PM 4:
 ACCOUNTING & GRAN
 BY *[Signature]*

Made from Recycled Paper



#2 (12/2014)

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *Edwin M. Lee* Mayor Edwin M. Lee
RE: Accept and Expend Grant - Federal Highway Bridge Replacement and
Rehabilitation Program - Fourth Street Bridge - \$11,420,360
DATE: June 16, 2015

Attached for introduction to the Board of Supervisors is a resolution retroactively authorizing the Department of Public Works to accept and expend a grant in the amount of \$11,420,360 from the Federal Highway Bridge Replacement and Rehabilitation Program (HBRRP) for reimbursement of eligible project and settlement costs incurred by the City and County of San Francisco.

I respectfully request that this item be calendared in Budget & Finance Committee on July 15th, 2015.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
JUN 16 PM 3:51
AK

