



CITY OF OAKLAND

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OFFICE OF THE CITY CLERK  
OAKLAND

2018 JAN 31 AM 10:00

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Jason Mitchell  
Director, Public Works

**SUBJECT:** Construction Award for Sausal Creek  
Erosion Control Restoration Project

**DATE:** January 2, 2018

City Administrator Approval

Date:

1/30/18

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Rejecting All Bids, Waiving Further Advertising And Competitive Bidding, Authorizing The City Administrator, Or Designee, To Negotiate, Award And Execute A Construction Contract Without Return To Council For An Amount Not To Exceed Three Hundred and Fifty Thousand Dollars (\$350,000) In The Open Market For The Construction Of The Sausal Creek Erosion Control Restoration Project (Project No. 1000839), In Accordance With The Project Plans And Specifications.**

## EXECUTIVE SUMMARY

The City issued a Notice of Inviting Bids for the Sausal Creek Erosion Control Restoration Project (Project) on April 21, 2017 with 1 bid received on May 11, 2017. While the bid did meet the City's Local Business and Small Local Business enterprise requirements, the bid exceeded the available construction budget for the Project by 87%.

Approval of this resolution will reject all bids and waive further advertising and competitive bidding per the Oakland Municipal Code (O.M.C.) Section 2.04.050.1.5, and authorize the City Administrator or Designee to negotiate, award and execute a construction contract on the open market in an amount not to exceed \$350,000 and which is in compliance with the City's Local and Small Local Business Enterprises requirements.

The City has insufficient funds for the lowest bid amount and construction work must begin in May 2018 and be completed by December 2018 in order to meet grant expenditure deadlines. Due to current construction market indications, a rebid of this Project would not guarantee lower pricing or generate more interest in the Project.

The work is located in Council District 4 as shown in **Attachment A: Project Location Map**. The Project will construct erosion control features to remediate erosion from storm drain outfalls at up to three sites within Dimond Canyon with a goal of reducing sediment load to Sausal Creek. This work is funded by a Proposition 84 grant through the California Department of Water Resources Urban Streams Restoration Program and Measure DD, the Oakland Trust for Clean

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Water and Safe Parks. It is a partnership between the City of Oakland and the Friends of Sausal Creek.

**BACKGROUND/LEGISLATIVE HISTORY**

The Project is located about 2,000 feet upstream of the Sausal Creek crossing with El Centro Avenue, off of Park Boulevard. It will manage urban runoff from storm drain outlets flowing into Sausal Creek. The Project will reduce erosion and sediment flow along Sausal Creek through the design and installation of erosion control solutions at up to three storm drain outlets that are currently experiencing significant erosion and are likely the most significant sources of sediment runoff to the creek within the local reach. The design uses natural elements where possible to stabilize slopes and infiltrate or slow urban runoff, and includes energy dissipation structures and vegetated swales to further stabilize gullies and other erosional features.

In 2008 the City was authorized, per City Council Resolution No. 81697 C.M.S., to co-sponsor with Friends of Sausal Creek, an application to the Department of Water Resources, Urban Streams Restoration Program. The grant was awarded in 2012 to the City of Oakland and the Friends of Sausal Creek and provided \$540,000 in funding to implement the Project. In 2013 City Council authorized, per Resolution No. 84644 C.M.S., the City Administrator or her Designee to appropriate up to \$540,000 in grant funds from the Department of Water Resources to the State of California Grant Fund (2159), Watershed and Stormwater Management Organization (30245), and Watershed and Stormwater Management Program (NB34). In 2013 City Council authorized, per Resolution 84644 C.M.S., the City Administrator or her Designee to enter into a Memorandum of Understanding with Friends of Sausal Creek to formalize a division of roles and responsibilities for Project implementation.

**ANALYSIS AND POLICY ALTERNATIVES**

The Project was advertised on April 21, 2017. Notifications were distributed by several means:

- City of Oakland *iSupplier* system which includes City certified firms, registered General Contractors, plan rooms and builder's exchange, totaling over 300 notices;
- Printed legal notice in the Oakland Tribune;
- Posting on CIPlist.com, which distributes to registered plan rooms and builders' exchanges; and

On May 11, 2017, the City Clerk received one bid a local general contractor for the Project as shown on **Attachment B:** Bid Summary (dated May 11, 2017). The bid amounts are:

<b>Company</b>	<b>Bid Amount</b>	<b>Bid Variance</b>
<b>Engineer's Estimate</b>	<b>\$227,428</b>	<b>0</b>
Bay Construction Co.	\$425,880	+87%

The professional cost estimate was finalized in March 2017, but could not account for the lack of available and willing contractors or subcontractors that would be interested in the Project.

The one contractor, Bay Construction Co., was deemed compliant by the Contract and Compliance Division because it met the Local and Small Local Business enterprise requirements (see **Attachment C**: Compliance Analysis, dated May 17, 2017). City Staff consulted with Bay Construction Co. in an effort to align their bid amount with the available Project budget to no avail. As a result, the one bid submitted is therefore non-responsive to the City's available construction budget. The City has insufficient funds for the lowest bid amount which exceeded the engineer's estimate by 87%.

Staff informally surveyed a local contractor after bid to learn why they had attended the pre-bid meeting but did not submit a bid. The contractor cited a variety of reasons including an engineer's estimate too low for the Project. The engineer's estimate was out of date and most likely too low. The construction market has seen a 5% cost index increase in the last several years. In addition, with the current construction market providing a steady supply of construction projects there is less competition for a project of this size.

Because of current construction market indications, a rebid of this Project would not guarantee lower pricing or generate more interest in the Project. Due to grant time constraints and the construction market conditions, it is in the City's best interest to enter into negotiation to execute a contract as soon as possible.

In accordance with O.M.C. Section 2.04.050, which requires advertising and competitive bidding for contracts that exceed \$50,000; section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements upon a finding and determination by the City Council that it is in the best interests of the City to do so. In addition, O.M.C. section 2.04.050.J states that if no valid bids are received after advertising as required, the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market.

Thus, per O.M.C. 2.04.050.I.5, staff recommends that it is in the City's best interest to waive further advertising and competitive bidding. In order to meet the grant schedule, the City will negotiate to secure a contract in the open market that is within the Project budget and that meets the City's contract compliance and program requirements.

Staff will begin negotiations with contractors that attended the pre-bid meeting. If funding constraints arise, staff will begin discussions to understand the contractor's costs and where the differences lay in scope line items to determine if there are any cost items to be reduced through better understanding of the scope or the cost margin. The next step will be to consider potential scope modifications but maintain as much of the Project scope as possible without affecting operational use, and develop a priority list of alternates that can be modified or reduced. If a price cannot be reached with contractors that attended the pre-bid meeting, staff will engage in discussions with other local willing and qualified contractors to gauge interest in the Project.

**FISCAL IMPACT**

Funding for this Project is provided through:

<b>FUNDING SOURCE</b>	<b>AMOUNT</b>
State of California Other Fund (2159); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Sausal Erosion Control Project (No. 1000839); Stormdrain Management and Maintenance Program (IN14); Award (20531)	\$282,428
Measure DD Series C Clean Water Program Fund (5322); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Creek Restoration-B (No. 1001190); Stormdrain Management and Maintenance Program (IN14); Award (21926)	\$67,572
<b>TOTAL FUNDS</b>	<b>\$350,000</b>

Approval of the resolution will authorize the City Administrator to execute a construction contract in the amount not to exceed \$350,000 to be funded by a California Department of Water Resources Urban Streams Restoration Program grant (\$282,428) and Measure DD (\$67,572).

The Project will remediate erosion from storm drain outfalls thereby reducing potential future maintenance costs. Friends of Sausal Creek will provide maintenance for plant establishment after construction completion. This Project aligns with the set of goals as described in the City's Open Space Conservation and Recreation Element (OSCAR) of the General Plan. The "Water Resources" section of OSCAR sets forth Objective CO-6 "to protect the ecology and promote the beneficial uses of Oakland's Creeks, lakes, and nearshore waters."

**PUBLIC OUTREACH/INTEREST**

Through their bi-monthly meetings, newsletter, listserv, and direct outreach Project partner Friends of Sausal Creek has notified the community of the grant award and the upcoming Project. The Project was presented as an information item at the May 10, 2017 Park and Recreation Advisory Commission. A pre-bid meeting was held on April 25, 2017. The Project was noticed to adjacent properties through the City's Bureau of Planning approval process for a Creek Protection Permit. The City and Friends of Sausal Creek will continue to conduct public outreach activities to ensure the community is well informed of Project scope and timeline.

**COORDINATION**

The Project has been coordinated within Public Works Department, Parks & Recreation Department and Contracts & Compliance Division of the City Administrator's Office. This report has been reviewed and approved by the Office of the City Attorney and Budget Bureau.

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### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The contractor will be verified for Local Business Enterprise and Small Local Business Enterprise participation by the Social Equity Division of the Department of Contracting and Purchasing. The construction services provided by local firms will result in dollars being spent locally. Through implementation of the Project, erosion and sedimentation will be reduced in the Sausal Creek watershed and help avoid the expenditure of funding to repair damage currently being caused by the erosion issues. Implementation of the Project will also reduce impact on downstream waterway areas and infrastructure and help reduce maintenance and capital cost expenditures.

***Environmental:*** Implementation of the Project will decrease erosion and sedimentation to improve water quality and habitat within the Sausal Creek watershed.

***Social Equity:*** Implementation of the Project will result in a cleaner waterway and, through stabilization of hillside areas in Dimond Canyon, a safer park for residents.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council adopt a resolution rejecting all bids, waiving further advertising and competitive bidding, authorizing the City Administrator, or Designee, to negotiate, award and execute a construction contract without return to Council for an amount not to exceed Three Hundred and Fifty Thousand Dollars (\$350,000) in the open market for the construction of the Sausal Creek Erosion Control Restoration Project (Project No. 1000839), in accordance with the Project plans and specifications. The contractor will be required to be in compliance with the City's programs such as Local and Small Local Business Enterprises prior to execution of the contract.

For questions regarding this report, please contact Lesley Estes, Watershed Manager, at (510) 238-7431.

Respectfully submitted,



JASON MITCHELL  
Director, Oakland Public Works

Reviewed by:  
Assistant Director Bureau of Design &  
Construction, Danny Lau, P.E.

Prepared by:  
Watershed and Stormwater Management  
Manager, Lesley Estes

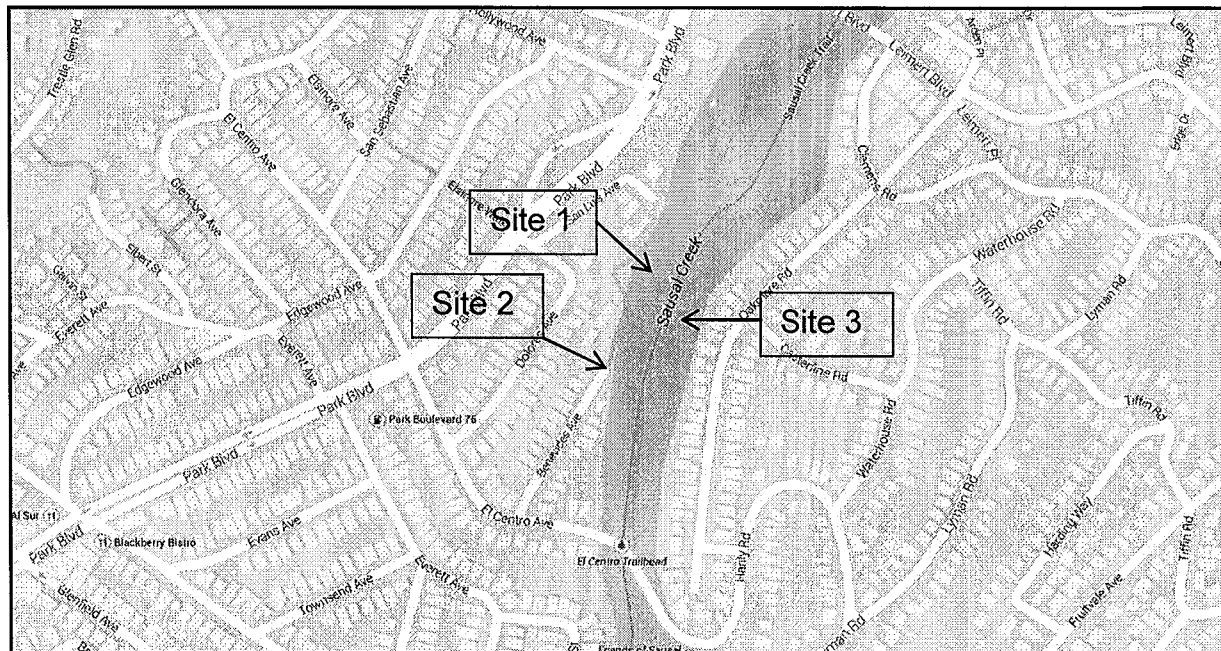
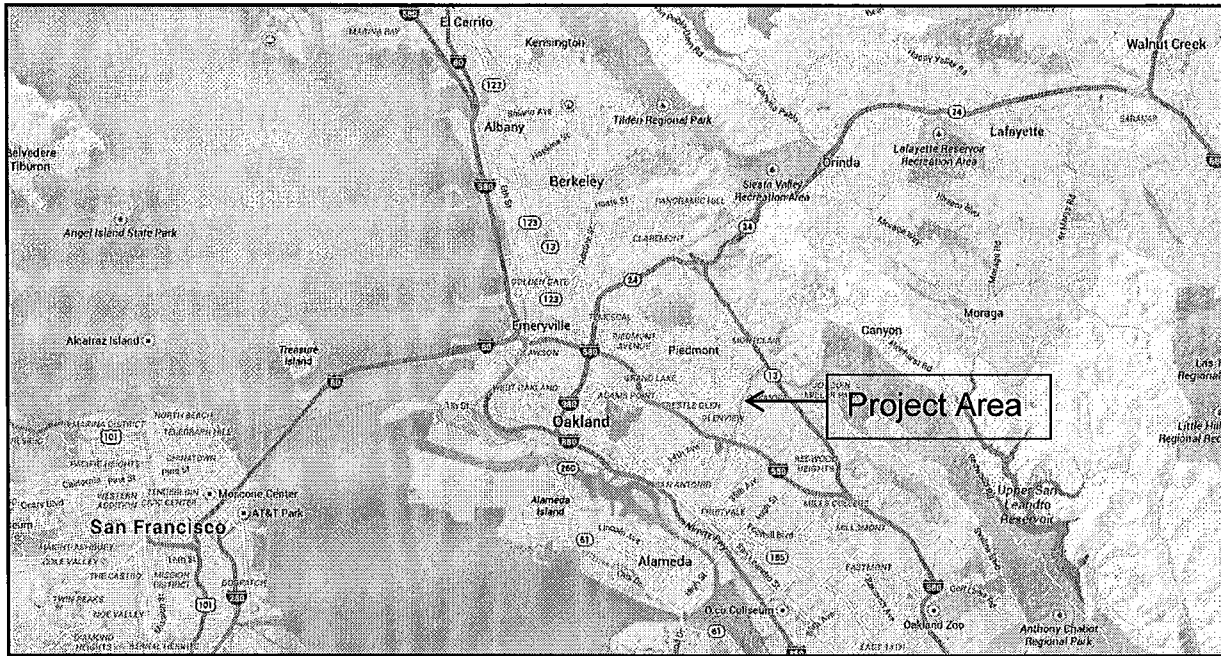
*Attachments (3):*

*A - Project Location Maps*

*B - Bid Summary*

*C - Compliance Analysis*

# ATTACHMENT A: PROJECT LOCATION MAPS



**ATTACHMENT B: BID SUMMARY**

**CITY OF OAKLAND BID SUMMARY  
Public Works Department - Contract Services**

- A) PROJECT NAME: **Sausal Creek Erosion Control Restoration Project**
- B) PROJECT NO: **1000839**
- C) BID OPENING DATE: **May 11, 2017**
- D) BASIS OF AWARD (BOA): **Base Bid**
- E) ENGINEER'S ESTIMATE OF BOA: **\$227,428.00**
- F) APPARENT LOW BIDDER PER BOA: **Bay Construction Co.**
- G) PROJECT MANAGER: **Ben Livsey**
- H) COMPLIANCE OFFICER: **Vivian Inman**
- I) ISSUED TO COMPLIANCE, PROJECT MANAGER AND ALL PRIME BIDDERS: **May 11, 2017**
- J) COMMENTS: **1) The apparent low bidder is not necessarily the lowest responsive, responsible bidder. The Dept. of Contract Compliance must evaluate all bids for mandatory local business participation and any bid discounts.**

Mandatory Bid Items	BAY CONSTRUCTION CO.
Contractor's Bid Form and Bid Schedule	Y
Correct Bidder License Type and Active per CSLB?	Y
Subcontractor Licenses Listed and Active per CSLB?	Y
Prime & Subcontractors Registered with DIR?	Y
Addenda acknowledgement	Y
Bid Security Clause	Y
Contractor Signature	Y
Schedule O - Campaign Contribution Limits	Y
Schedule R - Subcontractor, Supplier, Trucker Listing	Y
If Trucking is required, was one listed?	Y
Bid Bond	Y
Does EMR exceed 1.5?	N

Engineer's Estimate							BAY CONSTRUCTION CO.	
Item Number	Spec. Section	Quantity	Unit of Measure	Item Description	Unit Price	Total Amount	Unit Price	Total Amount
1a	01090 & 01500	1	LS	Mobilization & Traffic Control	40,000.00	40,000.00	14,400.00	14,400.00
1b	1090	1	LS	Site Survey and Layout	4,000.00	4,000.00	9,600.00	9,600.00
1c	1090	400	LF	Temporary Construction Fencing	7.50	3,000.00	12.00	4,800.00
2a	1560	700	LF	Silt Fence (furnish, install and remove)	2.00	1,400.00	24.00	16,800.00
2b	2936	1	LS	Seed Disturbed surfaces	2,500.00	2,500.00	6,000.00	6,000.00
2c	15003	1	LS	Develop and Implement SWPPP	5,000.00	5,000.00	12,000.00	12,000.00
3	1500	1	LS	Clearing/Grubbing/ Improve Access way (includes removing 17 trees)	30,000.00	30,000.00	12,000.00	12,000.00
4	2300	1	LS	Earthwork and Grading (estimated at 250 cu.yds)	10,000.00	10,000.00	30,000.00	30,000.00
5	2380	100	TON	Rock Outlet Protection, Check Dams, and channel lining	150.00	15,000.00	480.00	48,000.00
6	2201	2,500	SF	Erosion Control; blankets, wattles, mulch etc.	1.85	4,625.00	18.00	45,000.00
7	2630	30	LF	Culvert outlet installation	450.00	13,500.00	96.00	2,880.00
8	2520	1	LS	Drop Inlet Installation	3,500.00	3,500.00	4,800.00	4,800.00
9	2300	1	LS	Trail Repair/Rehabilitation/water bars	2,500.00	2,500.00	21,600.00	21,600.00
10	1500	1	LS	Clearing/Grubbing Site 1	4,500.00	4,500.00	13,200.00	13,200.00
11	2300	400	CY	Earthwork and Grading	45.00	18,000.00	120.00	48,000.00
12	2140	1	LS	Temporary crossing	4,000.00	4,000.00	7,200.00	7,200.00
13	2272	1	LS	Load, Transport and Install Woody Debris	2,500.00	2,500.00	4,800.00	4,800.00
14	2380	15	TON	Woody Debris Anchor rock	150.00	2,250.00	480.00	7,200.00
15	2270	300	LF	Willow staked Biolog revetments	30.00	9,000.00	24.00	7,200.00



**ATTACHMENT B: BID SUMMARY**

**CITY OF OAKLAND BID SUMMARY  
Public Works Department - Contract Services**

16	2201	2,000	SF	Erosion Control Blanket	1.85	3,700.00	9.60	19,200.00	
17	1500	1	LS	Clearing/Grubbing Site 2	1,500.00	1,500.00	10,800.00	10,800.00	
18	2140	1	LS	Temporary crossing	4,000.00	4,000.00	12,000.00	12,000.00	
18	2070	10	CY	Demo existing culvert- Site 2	100.00	1,000.00	480.00	4,800.00	
19	2720	10	TON	Class II AB	85.00	850.00	120.00	1,200.00	
20	313	10	TON	AC Pavement (street repairs as needed)	200.00	2,000.00	600.00	6,000.00	
21	2630	100	LF	Culvert Installation	150.00	15,000.00	96.00	9,600.00	
22	3200	1	LS	Anchor piles	2,500.00	2,500.00	960.00	960.00	
23	2520	1	LS	Drop Inlet	2,000.00	2,000.00	2,400.00	2,400.00	
24	2520	1	LS	CIP Piers and thrust block	6,500.00	6,500.00	6,000.00	6,000.00	
25	2520	30	LF	AC curb repairs	50.00	1,500.00	48.00	1,440.00	
26	2380	10	TON	Outlet protection	150.00	1,500.00	480.00	4,800.00	
27	2201	650	SF	Erosion Control Blanket	1.85	1,202.50	9.60	6,240.00	
28		1	LS	Planting FOSC supplied plants	2,500.00	2,500.00	6,000.00	6,000.00	
25	2380	3	TON	Deliver and Stockpile Rock	150.00	450.00	720.00	2,160.00	
26	2630	1	LS	12" Culvert Installation	2,000.00	2,000.00	2,400.00	2,400.00	
27	2300	1	LS	Bioswale Grading	2,100.00	2,100.00	4,800.00	4,800.00	
28	2201	1000	SF	Erosion Control Blanket	1.85	1,850.00	9.60	9,600.00	
						<b>Total of Base Bid Items per spreadsheet calculation</b>	<b>227,427.50</b>		<b>425,880.00</b>
						<b>Total of Base Bid Items per Bidder calculation</b>		<b>425,880.00</b>	

**Bid Alternate 1:**

29	7-3	1	LS	ADD Cost of Commercial Liability Insurance Coverage	Lump Sum	-		18,000.00
30	7-3	1	LS	ADD Cost of Worker's Compensation Insurance Coverage	Lump Sum	-		7,200.00
31	7-3	1	LS	ADD Cost of Excess Liability or Umbrella Insurance Coverage	Lump Sum	-		7,200.00
						<b>Total of Bid Alternate 1</b>		<b>32,400.00</b>
						<b>Estimated OCIP Cost: 2.3% of Total of Base Bid</b>		<b>9,795.24</b>

<b>ADD Bid Alternate #1 if Bidder's EMR ≥ 1.5 (per Bid Instructions, Section 17)</b>						
<b>ADD Bid Alternates for BOA bid comparison, if any.</b>						
<b>TOTAL BID (BOA)</b>						<b>425,880.00</b>
<b>% Self - Performed * (applies to engineering projects only)</b>						<b>98%</b>
<b>% Over / Under Engineer's Estimate</b>						<b>87%</b>

\* If the NTB indicates a Self-Performance requirement for this project, the values provided in Schedule R will be used in the calculation. The following calculation will be used to determine compliance. (Special Provisions Section 2-3.2)

**Self-Performance % = (Contract Price - Total Subcontracted Cost)**

**Contract Price**

- **Contract Price** is defined as the total Base Bid Price, plus any selected bid alternates.
- **Total Subcontracted Cost** includes all subcontractor bids for the Base Bid and any selected bid alternates, excluding any Specialty Items. This cost excludes the prime bidder's supplier costs and trucking bids.



# INTER OFFICE MEMORANDUM

**TO:** Ben Livsey

**FROM:** Deborah Barnes, *Deborah Barnes*  
Director, Contracts & Compliance

**SUBJECT:** Compliance Analysis  
Sausal Creek Erosion Control Restoration  
Project No. 1000839

**DATE:** May 17, 2017

The City Administrator's Office, Contracts and Compliance Unit reviewed one (1) bid in response to the above referenced project. Below are the results of the compliance evaluation for the minimum 50% Local and Small Local Business Enterprise (L/SLBE) participation requirement, a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

Compliant with L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LGP	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Bay Construction	\$425,880	98.36%	0.00%	98.36%	0.00%	100%	98.36%	NA	NA	Y

**Comments:** As noted above, Bay Construction Company exceeded the minimum 50% L/SLBE participation requirement. The firm is EBO compliant.

**For Informational Purposes:**

Listed below is the lowest bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

**Contractor Name:** Bay Construction

**Project Name:** Woodminster Theater ADA Improvement Upper Amphitheater

**Project No:** C274390

**50% Local Employment Program (LEP)**

Was the 50% LEP Goal achieved?	YES	If no, shortfall hours?	NA
Were all shortfalls satisfied?	YES	If no, penalty amount	NA

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	YES	If no, shortfall hours?	NA
Were shortfalls satisfied?	YES	If no, penalty amount?	NA

**ATTACHMENT C: COMPLIANCE ANALYSIS**

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E)# resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

Total Project Hours	50% Local Employment Program (LEP)							15% Apprenticeship Program				
	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Oakland Apprenticeship Hours Achieved	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
		Goal	Hours	Goal	Hours					Goal	Hours	
A	B	C		D		E	F	G	H	I		J
1635.5	0	50%	812.75	50%	812.75	0	0	100%	243.9	15%	243.9	0

**Comments:** Bay Construction Company exceeded the Local Employment Program's 50% resident hiring goal with 100% resident employment and met the 15% Oakland Apprenticeship Program.

Should you have any questions, you may contact Vivian Inman, Contract Compliance Officer at (510) 238-6261.



**OFFICE OF THE CITY ADMINISTRATOR**

**Contracts & Compliance Unit**

**PROJECT EVALUATION FORM**

**PROJECT NO.:** Sausal Creek Erosion Control Restoration Project

**PROJECT NAME:** 1000839

**CONTRACTOR:** Bay Construction Company

**Engineer's Estimate:**  
227,428.00

**Contractors' Bid Amount**  
\$425,880.00

**Over/Under Engineer's Estimate**  
-198,452.00

**Discounted Bid Amount:**  
NA

**Amount of Bid Discount**  
NA

**Percent discount**  
NA

- 1. Did the 50% local/small local requirements apply? **YES**
  
- 2. Did the contractor meet the 50% requirement? **YES**
  - a) % of LBE participation **0.00%**
  - b) % of SLBE participation **98.36%**
  - c) % of VSLBE participation **0.00%**
  
- 3. Did the contractor meet the Trucking requirement? **YES**
  - c) Total SLBE/LBE trucking participation **100.00%**
  
- 4. Did the contractor receive bid discounts? **NA**
  - (If yes, list the percentage received) **0.00%**
  
- 5. Additional Comments.

**Bidder did not receive bid discounts because there was only one bidder.**

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

**5/17/2017**

Date

**Reviewing Officer:**

*Muhammad*

**Date:** **5/17/2017**

**Approved By:**

*Shelley Darenburg*

**Date:** **5/17/2017**

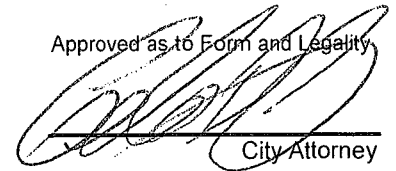
## LBE/SLBE PARTICIPATION

### Bidder 1

Project Name: Sausal Creek Erosion Control Restoration Project

Project No.: 1000839		Engineers Est: 227,428.00				Under/Over Engineers Estimate:				For Tracking Only				
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	LPG/VSLBE	Total	L/SLBE	Total	TOTAL	Ethn.	MBE	WBE	
							LBE/SLBE	Trucking	Trucking	Dollars				
PRIME Trucking SWPPP	Bay Construction Company	Oakland	CB		413,880.00		413,880.00			413,880.00	AP	413,880.00		
	All City Trucking	Oakland	CB		5,000.00		5,000.00	5,000.00	5,000.00	5,000.00	AI		5000.00	
	Verux SWPPP	Sacramento	UB							7,000.00	NL			
<b>Project Totals</b>				\$0.00	\$418,880.00	\$0.00	\$418,880.00	\$5,000.00	\$5,000.00	\$425,880.00		\$413,880.00	\$5,000.00	
				0.00%	98.36%	0.00%	98.36%	100.00%	100.00%	100.00%		97.18%	1.17%	
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				LBE 25%	SLBE 25%	VSLBE/LPG	TOTAL LBE/SLBE	TOTAL LBE/SLBE TRUCKING		<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership				
LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise				UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise										

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City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION REJECTING ALL BIDS, WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE, AWARD AND EXECUTE A CONSTRUCTION CONTRACT WITHOUT RETURN TO COUNCIL FOR AN AMOUNT NOT TO EXCEED THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$350,000) IN THE OPEN MARKET FOR THE CONSTRUCTION OF THE SAUSAL CREEK EROSION CONTROL RESTORATION PROJECT (NO. 1000839) IN ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS**

**WHEREAS**, in 2008 City Council authorized, per Resolution 81697 C.M.S., the City Administrator or his Designee to co-sponsor with the Friends of Sausal Creek a grant application to the Department of Water Resources Urban Streams Restoration Program for the Sausal Creek Erosion Control Restoration Project; and

**WHEREAS**, in 2012 the Department of Water Resources awarded a grant of \$540,000.000 to City of Oakland and the Friends of Sausal Creek to implement the Sausal Creek Erosion Control Restoration Project; and

**WHEREAS**, in 2013 City Council authorized, per Resolution 84644 C.M.S., the City Administrator or her Designee to appropriate up to \$540,000 in grant funds from the Department of Water Resources to the State of California Grant Fund (2159), Watershed and Stormwater Management Organization (30245), and Watershed and Stormwater Management Program (NB34); and

**WHEREAS**, in 2013 City Council authorized, per Resolution 84644 C.M.S., the City Administrator or her Designee to enter into a Memorandum of Understanding with Friends of Sausal Creek to formalize a division of roles and responsibilities for Project implementation; and

**WHEREAS**, on April 21, 2017 the City advertised the Sausal Creek Erosion Control Restoration Project No. 1000839 for bid and 1 bid was received in the amount of \$425,880 by the City Clerk on May 11, 2017; and

**WHEREAS**, the bid met the City's Local and Small Local Business Enterprise program as reviewed by the Contracts and Compliance Unit and was significantly over the construction estimate of \$227,428; and

**WHEREAS**, OMC Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interests of the City to do so and Section 2.04.050.J states that if no valid bids are received after advertising as required, the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market; and

**WHEREAS**, advertising and competitive re-bidding will delay the construction project which is to be completed by December 31, 2018 before grant funds expiration; and

**WHEREAS**, there are sufficient funds in the project budget for the work under the following sources:

- State of California Other Fund (2159); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Sausal Erosion Control Project (No. 1000839); Stormdrain Management and Maintenance Program (IN14); and Award (20531)
- Measure DD Series C Clean Water Program Fund (5322); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Creek Restoration-B (No. 1001190); Stormdrain Management and Maintenance Program (IN14); and Award (21926); and

**WHEREAS**, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance; and

**WHEREAS**, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now, therefore, be it

**RESOLVED:** That all bids are hereby rejected; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding per OMC Section 2.04.050.I.5 and per Section 2.04.050.J that the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market since no valid bids are received after advertising as required; and be it

**FURTHER RESOLVED:** That the City Administrator, or Designee, is authorized to negotiate, award and execute a construction contract without return to Council for the construction of the Sausal Creek Erosion Control Restoration Project No. 1000839 for an amount not to exceed of

**FURTHER RESOLVED:** That the City Council hereby approves the plans and specifications, including any subsequent changes during construction, that will be reviewed and adopted by the Assistant Director of the Oakland Public Works Department for this project; and be it

**FURTHER RESOLVED:** That the City Administrator, or Designee, is authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That the successful contractor shall comply with all City contracting and compliance program requirements that apply to this contract, including Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation and be verified by the Contracts and Compliance Division; and be it

**FURTHER RESOLVED:** That the successful contractor shall provide faithful performance bond and a bond to guarantee payment of all claims for labor and materials furnished and for the amount of 100% of the contract price and due under the Unemployment Insurance Act prior to execution of the contract; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, GIBSON MCELHANEY, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California