

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 FEB 23 PM 3:59

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: March 8, 2005

RE: RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REJECT ALL BIDS FOR THE MEMORIAL PARK PROJECT, TO REVISE THE SCOPE OF WORK, NEGOTIATE AND TO AWARD A CONSTRUCTION CONTRACT WITHOUT RETURN TO CITY COUNCIL FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED AND THIRTY THOUSAND DOLLARS (\$630,000)

SUMMARY

A resolution has been prepared authorizing the City Administrator, or her designee, to reject all bids for the Memorial Park Project (Project No. C224510). The resolution also requests approval to revise the scope of work, negotiate a contract, and award a construction contract without return to City Council for an amount not to exceed \$630,000. The negotiated contract will require the contractor to meet all of the City's Local/Small Local Business Enterprise program and local employment requirements. Staff will provide to the City Council an Information Report on the Local and Small Business participation upon completion of the contract negotiations.

On January 31, 2005, three bids were received by the City Clerk for the Memorial Park project. Bay Construction (Oakland), Simco Construction (Oakland) and Ray's Electric (Oakland) submitted bids of \$689,000, \$760,540 and \$972,300, respectively. The bids were substantially over the engineer's estimate of \$550,000. Therefore, the bids from Bay Construction, Simco Construction and Ray's Electric should to be rejected.

The Memorial Park project is funded by the Cypress Freeway Mitigation Agreement from the State of California Department of Transportation (Caltrans) in the amount of \$620,000, a grant of \$250,000 from the State Environmental Enhancement and Mitigation (EEM) Program and from Council Discretionary Funds from District 3 (Paygo, Fund No. 5500) in the amount of \$41,000. The original EEM grant has a deadline of June 30, 2005, to submit the final reimbursement request. In December 2004, the State of California notified the City of Oakland that the final reimbursement request must be submitted by April 30, 2005. Reimbursement requests submitted after April 30th risk a greater chance of non-reimbursement by the State of California.

In order to meet the April 30, 2005, deadline for submittal of the balance of the reimbursement of the State of California grant funds, staff is requesting authorization to reject all bids, to revise the scope of work, to negotiate a contract, and to award a construction contract without return to City Council for an amount not to exceed \$630,000. The funding agencies approve of negotiating a contract. The process to re-bid the project and award a construction contract will take three to four more months, well beyond the new date for grant reimbursement.

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This project fulfills the City Council goal of “providing for clean, well-maintained and accessible streets, sidewalks, facilities, amenities, parks, recreational facilities, and trees.” The project is located in Council District 3.

FISCAL IMPACT

The total construction budget for the project is \$681,232, which includes an (8%) contingency. The project is funded by a grant from the State of California Department of Transportation (Caltrans), the State Environmental Enhancement and Mitigation (EEM) Program, and from Council Discretionary Funds from District 3 (Paygo, Fund No. 5500). This project is budgeted in the Department of Transportation fund (#2140) in the Memorial Park project (#C224510 and #C224520), in the Public Works Agency.

In accordance with City Policy, three percent (3%) of the construction contract amount will be set aside within Project Number C224510, Account 56918. The Public Art assessment of 1.5% is included in the Memorial Park project budget by integrating the art portion directly into the project design. The Public Art staff provided support and technical expertise during the design of the project.

The annual cost to maintain Memorial Park is estimated at \$45,000 per year. Staff is presenting these costs along with other new park maintenance costs in the 2005-07-budget process.

BACKGROUND

The Memorial Park project will consist of open space with colorful greenery and distinctive landscaped areas that acknowledge the lives lost during the 1989 Loma Prieta earthquake and the historical significance of rescue efforts by the West Oakland community. In addition, the Memorial Park project will improve the overall visual appearance of the area, and provide a safe rest area for the Bay Trail connection along Mandela Parkway through West Oakland.

On January 31, 2005, three bids were received by the City Clerk for the Memorial Park project. Bay Construction (Oakland), Simco Construction (Oakland) and Ray’s Electric (Oakland) submitted bids of \$689,000, \$760,540 and \$972,300, respectively. All three firms exceeded the Small and Local Business participation goal of 20%. Attachment A is the Contract Compliance LBE/SLBE analyses. However, Bay Construction’s bid is 25% over the engineer’s estimate of \$550,000, and similarly, Simco Construction’s bid is 38% over the engineer’s estimate and Ray’s Electric’s bid is 75% over the engineer’s estimate. Therefore, the bids from Bay Construction, Simco Construction and Ray’s Electric should be rejected. The bids were substantially over the engineer’s estimate due to market conditions, and as a result of recent material price increases of concrete and steel. Staff recommends approval to reject all bids, to revise the scope of work, to negotiate a contract within the construction budget, starting with the lowest bidder, and to award a construction contract without return to City Council for an amount not to exceed \$630,000.

The original scope of work, consists of the construction of a concrete plaza area and surrounding planting areas at 14th and Mandela Parkway, with a sculptural piece “Three Ladders”, a series of

arched trees and shrub plantings in the plaza area and surrounding area, Bay Trail signage, a drinking fountain, a curved granite seat wall, granite benches, two interpretive plaques, pervious concrete paths, and a series of arched native grass planted berms which emulate the seismic wave motion of the land, and other related work.

With the recent supplement of \$41,000 from Council District 3 Paygo fund, the available construction budget is \$630,000. In order to complete the project within the construction budget, staff and the design consultant have explored various cost saving measures by revising and reducing the scope of work. The potential design changes consist of changing the type of drinking fountain to a standard stainless steel fountain, modifying the pervious and decorative concrete to a standard gray concrete in the walking paths and plaza area, eliminating the granite benches and one of the interpretive plaques, reducing the size of the “Three Ladder” sculpture and the height of the grass planted berms, and other cost saving items. These reductions and modifications will allow the project to be completed within budget yet will not significantly affect the design integrity, quality, or scope of the original project.

KEY ISSUES AND IMPACTS

The State of California EEM recently revised the grant reimbursement deadline moving it back in time by several months. The process to re-bid and award the project will take three to four more months, well beyond the new date for grant reimbursement, and results of the first bid indicate that results of a re-bid would not be significantly different from the first bid process. The City Charter, Article 808 and Municipal Code, Title 2, Chapter 2.04.050 I (2) and (5), allows waiver of competitive bidding when it is in the best interests of the City to do so.

Staff requests authorization to reject all bids, to revise the scope of work, to negotiate a contract, and to award a construction contract without return to City Council for an amount not to exceed \$630,000. This request is made to accelerate the project schedule to meet the revised State of California EEM deadline of April 30, 2005, so that the City can submit receipts for reimbursement of the full balance of the grant.

With the approval of this resolution, construction is scheduled to begin in April 2005. The duration of the work is scheduled for 120 calendar days with the completion of construction in the summer of 2005. The contract specifies \$1,000 in liquidated damages per calendar day if the contract completion date is exceeded.

SUSTAINABLE OPPORTUNITIES

Economic: The project will enhance the physical appearance of the neighborhood, which will provide potential future economic development in the area.

Environmental: The contractor will take into consideration green building technologies and to the extent feasible, utilize recycled materials in the products specified and explore other environmental opportunities such as waste reduction and energy conservation.

Social: The Memorial Park project will improve the overall visual appearance of the area, and provide a safe rest area for the Bay Trail connection through West Oakland.

DISABILITY AND SENIOR CITIZEN ACCESS

The Memorial Park project will be in compliance with the physical access requirements of the Americans with Disabilities Act (“ADA”), and will provide equal opportunity and access to the facility.

RECOMMENDATION AND RATIONALE

Staff recommends that Council approve the resolution authorizing the City Administrator to reject all bids, to revise the scope of work, to negotiate a contract, and to award a construction contract for the Memorial Park project without return to Council for an amount not to exceed \$630,000.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



RAUL GODINEZ II, P.E.

Director, Public Works Agency

Reviewed by:

Micheal Neary, P.E.

Assistant Director, Public Works Agency

Design & Construction Services Department

Prepared by:

Sandra Washington

Project Manager, Project Delivery Division

APPROVED AND FORWARDED
TO THE PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

LBE/SLBE Participation Bay Construction

Project Name: Memorial Park

Project No.: C224510		Engineers Estimate: \$550,000			Under/Over Engineers Estimate: -138,999.68						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	LOCAL TRUCKING	TOTAL LBE/SLBE	TOTAL Dollars	For Tracking Only		
									Ethn.	MBE	WBE
PRIME Electrical	Bay Construction	Oakland	CB		\$597,602			\$597,602	A	\$597,602	
	Columbia Electric	Oakland	UB					\$62,000			
	Playworks	Sunnyvale	UB					\$3,450			
	Ross Recreation Equipment	Santa Rosa	UB					\$9,898			
	Winsor Fireform Porcelain Enamel	Turnwater	UB					\$11,050			
Trucking	Williams Trucking	Oakland	CB			\$5,000		\$5,000			
Project Totals				0.00 0.0%	\$597,602 86.73%	\$5,000 100.00%	\$0 86.73%	\$689,000		\$597,602	0
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation or a total of 20% SLBE participation.				LBE 10%	SLBE 10%	TOTAL LBE/SLBE 20%			Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other		
Legend	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							

LBE/SLBE Participation Simco Construction

Project Name: Memorial Park

Project No.: C224510		Engineers Estimate: \$550,000			Under/Over Engineers Estimate: -210,539.68						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	LOCAL TRUCKING	TOTAL LBE/SLBE	TOTAL Dollars	For Tracking Only		
									Ethn.	MBE	WBE
PRIME	Simco Construction	Oakland	UB					\$187,894			
Granite Benches	Gillman/Keefer	Oakland	CB		\$125,000		\$125,000	\$125,000			
Landscape & Irrigation	RMT Landscape Contractors	San Leandro	UB					\$219,621			
Grade Staking	Worldwide Land Surveys & Civil Engineering, Inc.	Pacheco	UB					\$9,500			
Concrete Suppl.	Berkeley Cement	Berekeley	UB					\$133,423			
Site Furnishing	Ross Recreation Equipment	Santa Roas	UB					\$9,898			
Interpretive Plaque	Winsor Fireform Porcelain Enamel	Turnwater	UB					\$11,050			
Drinking Fountain	Braswell Construction, Inc.	Livermore	UB					\$15,300			
Electrical Lighting	MM Electrical & Telecom	Oakland	CB		\$48,854		\$48,854	\$48,854			
Project Totals				0.00	\$173,854	\$0	\$173,854	\$760,540		0%	0%
					23%		23%				
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation or a total of 20% SLBE participation.				LBE 10%	SLBE 10%	TOTAL LBE/SLBE 20%			AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other		
Legend				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			

LBE/SLBE Participation Ray's Electric

Project Name: Memorial Park

Project No.: C224510		Engineers Estimate: \$550,000			Under/Over Engineers Estimate: -422,300.00							
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	LOCAL TRUCKING	TOTAL LBE/SLBE	TOTAL Dollars	For Tracking Only			
									Ethn.	MBE	WBE	
Prime	Ray's Electric	Oakland	CB		\$498,300		\$498,300	\$498,300				
Irrigation/Planting	TPT Gardener	Oakland	CB		\$298,000		\$298,000	\$298,000	AA	\$298,000		
Concrete	Central Concrete	Oakland	CB		\$15,000		\$15,000	\$15,000				
Electrical	Alameda Electrical Dist.	Alameda	UB					\$15,000				
Rock & Base	Specialty Crushing	Oakland	CB		\$5,000		\$5,000	\$5,000				
Trucking	Williams Trucking	Oakland	CB			\$8,000		\$8,000	AA	\$8,000		
Signage	Merrill Signs	Oakland	UB					\$8,000				
Art Work	Gillman/Keefer	Oakland	CB		\$125,000		\$125,000	\$125,000				
Project Totals					0.00 0.0%		\$941,300 96.81%	\$8,000 100.00%	\$941,300 96.81%		\$306,000	\$0
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation or a total of 20% SLBE participation.				LBE 10%	SLBE 10%	TOTAL LBE/SLBE 20%				Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other		
Legend	LBE = Local Business Enterprise			UB = Uncertified Business								
	SLBE = Small Local Business Enterprise			CB = Certified Business								
	Total LBE/SLBE = All Certified Local and Small Local Businesses			MBE = Minority Business Enterprise								
	NPLBE = NonProfit Local Business Enterprise			WBE = Women Business Enterprise								
	NPSLBE = NonProfit Small Local Business Enterprise											

OAKLAND CITY COUNCIL

RESOLUTION No. _____

C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

INTRODUCED BY COUNCIL MEMBER _____

Requires the two-thirds vote of the Council 2005 FEB 23/PH 4 09

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REJECT ALL BIDS FOR THE MEMORIAL PARK PROJECT, TO REVISE THE SCOPE OF WORK, AND TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT WITHOUT RETURN TO CITY COUNCIL FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED AND THIRTY THOUSAND DOLLARS (\$630,000)

WHEREAS, the Memorial Park project will consist of open space with colorful greenery and distinctive landscaped areas that acknowledge the lives lost during the 1989 Loma Prieta earthquake and the historical significance of the rescue efforts by the West Oakland community; and

WHEREAS, the Memorial Park project will improve the overall visual appearance of the area and provide a safe rest area for the Bay Trail connection through West Oakland; and

WHEREAS, the Memorial Park project is funded by a grant from the State of California Department of Transportation (Caltrans) in the amount of \$620,000, the State Environmental Enhancement and Mitigation (EEM) Program in the amount of \$250,000 and from Council Discretionary Funds from District 3 (Paygo, Fund No. 5500) in the amount of \$41,000; and

WHEREAS, funds are available in the Department of Transportation fund (#2140) in the Memorial Park project (#C224510 and #C224520), in the PWA, Project Delivery Organization (#92270); and

WHEREAS, the original EEM grant funds had a stipulation that the final reimbursement request must be submitted to the state by June 30, 2005.

WHEREAS, in December 2004, the State of California notified the City of Oakland that the deadline for submission of project costs for reimbursement was moved back several months to April 30, 2005, for the State Environmental Enhancement and Mitigation (EEM) Program grant; and

WHEREAS, reimbursement requests submitted after April 30th are at risk of non-reimbursement by the State of California; and

WHEREAS, on January 31, 2005, three bids substantially over the engineer's estimate were received by the City Clerk for the Memorial Park project and thus should be rejected; and

WHEREAS, formally re-bidding and awarding the project will require three to four months; and

WHEREAS, City Charter Article 808 and Oakland Municipal Code, Title 2, Section 2.04.050.I (2) and (5), allows waiver of competitive bidding when a second competitive bid process would be

unavailing and when it is in the best interests of the City to waive competitive bidding; and

WHEREAS, revising the scope of work, waiver of competitive bidding and authorizing a negotiated contract will accelerate the project schedule to allow for the completion of the Memorial Park project by summer 2005; and

WHEREAS, the funding agencies approve of negotiating a contract;

WHEREAS, staff and the design consultant have proposed to reduce the construction cost by revising the scope of work and value engineering, the modifications to the scope of work will allow the project to be completed within budget yet will not significantly affect the design integrity, quality, or scope of the original project; and

WHEREAS, the contractor will be required to meet the City's local and small local business, *employment and other contracting programs and requirements*; and

WHEREAS, there are sufficient funds in the project budget for the work; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, the City Council finds and determines that the performance of this contract is in the public interest because of economy, and that services under this contract will be temporary; 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 service; now, therefore, be it

RESOLVED: That pursuant to City Charter Article 808 and Oakland Municipal Code, Title 2, Section 2.04.050.I (2) and (5), the City Council finds it is in the best interests of the City to waive the formal bidding requirement because a second competitive bid process would be unavailing and would exceed the time allowed for grant reimbursements under the State EEM grant; and, be it

FURTHER RESOLVED: *that the City Administrator, or her designee, is hereby authorized to reject all previous bids for the Memorial Park Project, Project No. C224510 and return bid securities; and, be it*

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to revise the scope of work, to negotiate a contract and to award a construction contract without return to City Council for an amount not to exceed \$630,000; and, be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to execute any amendments or modifications of said contract within the limitations of the revised project specifications; and, be it

FURTHER RESOLVED: The amount of the bond for faithful performance will be equal to 100% of the contract amount, and the amount for a bond to guarantee payment of all claims for labor and material

furnished and for the amount due under the Unemployment Insurance Act will also be equal to 100% for the contract amount, with respect to such work are hereby approved; and, be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and, be it

FURTHER RESOLVED: That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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