  
City Attorney

2010 JUL -8 PM 2:50 RESOLUTION No. 82947 C.M.S.

**RESOLUTION AWARDING THE CONTRACT FOR CONSTRUCTION OF VARIOUS STREETS AND ROADS, REHABILITATION PHASE II (PROJECT NO. C396810) TO BAY CITIES PAVING & GRADING, INC. IN THE AMOUNT OF ONE MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND SIXTY-EIGHT DOLLARS AND TWENTY-ONE CENTS (\$1,476,068.21)**

**WHEREAS**, the City of Oakland was awarded an American Recovery and Reinvestment Act (ARRA) grant, and the Metropolitan Transportation Commission Program Grant (2606) funding for the ARRA grant was approved and appropriated by City Council on June 16, 2009, per Resolution No. 82094 C.M.S.; and

**WHEREAS**, this grant money will be moved to Fund 2606, a new fund established for appropriation and expenditures of ARRA grants, in accordance with published Fiscal Tracking and Reporting Requirements for ARRA funds; and

**WHEREAS**, there are sufficient funds in the project budget for the work and funding for this work is available in the following project account: Metro Transportation Commission (ARRA) (2606); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C396810; and

**WHEREAS**, there are sufficient local match funds in the project budget for the work and funding for this work is available in the following project account: State Traffic Congestion Relief – Proposition 42 Fund (2141); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C369710; and

**WHEREAS**, on June 24, 2010, two bids were received by the Office of the City Clerk of the City of Oakland in response to the Notice Inviting Bids for Various Streets and Roads Rehabilitation Phase II (Project No. C396810); and

**WHEREAS**, the lowest bidder, Gallagher and Burk, Inc., failed to meet the minimum 4.05% RC UDBE goal participation and the Good Faith Effort submitted is not sufficient and is, therefore, deemed non-responsive; and

**WHEREAS**, Bay Cities Paving & Grading, Inc., is the next lowest responsible, responsive bidder for the project; and

**WHEREAS**, this ARRA grant has a construction award deadline of July 30, 2010 and this authorization is, therefore, needed to meet the award deadline; and

**WHEREAS**, the ARRA grant requires contractors to meet federal Underutilized Disadvantaged Business Enterprise (UDBE) program requirements; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary repairs and the City Council finds and determines that the performance of this contract is in the public interest because of the economy; and

**WHEREAS**, the City Administrator has determined that this contract is professional, scientific or technical and temporary in nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**WHEREAS**, the City of Oakland's streets infrastructure is considered a significant asset that impacts the quality of life for those who live and work in Oakland; and

**WHEREAS**, the City Council adopted a 5-Year Paving Plan for FY 07-12, representing the optimized distribution of paving funds as analyzed by the City's Pavement Management Program, only Federal Aid Urban (FAU) eligible streets may be selected for this project, and the project locations associated with this project are selected from the City's 5-Year Paving Plan for FY 07-12 and are FAU eligible; and

**WHEREAS**, the Department of Transportation has determined the project documents and plans are eligible for federal funding; now, therefore, be it

**RESOLVED:** That the contract for the Construction of Various Streets and Roads, Rehabilitation Phase II (Project No. C396810) is hereby awarded to Bay Cities Paving & Grading, Inc. in accordance with the terms of the contractor's bid therefore, dated June 24, 2010 in the amount of One Million Four Hundred Seventy-Six Thousand Sixty-Eight Dollars And Twenty-One Cents (\$1,476,068.21), and be it

**FURTHER RESOLVED:** That the contractor shall provide a bond for faithful performance in the amount of \$1,476,068.21, and a bond to guarantee payment of all claims for labor and materials furnished and for amount due under the Unemployment Insurance Act in the amount of \$1,476,068.21.; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared by the Deputy Director of the Community Economic Development Agency for this project are hereby approved; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to execute any change orders, amendments, extensions or modifications of said agreement, within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That all other bids are hereby rejected; 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, JUL 20 2010, 20    

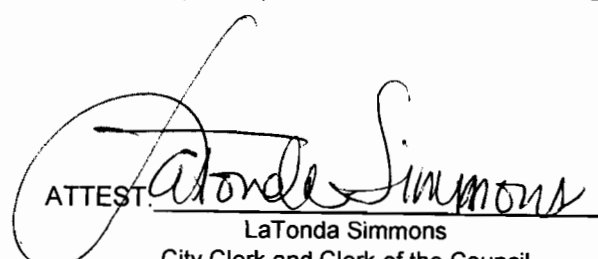
**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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