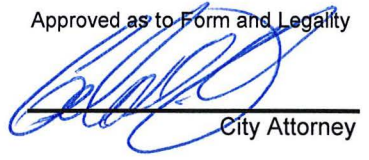


**FILED**  
**OFFICE OF THE CITY CLERK**  
**OAKLAND**  
**2015 MAY 28 AM 9:59**

  
\_\_\_\_\_  
City Attorney

# OAKLAND CITY COUNCIL

RESOLUTION No. 85655 C.M.S.

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

**ADOPT A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO MOSTO CONSTRUCTION, THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, IN ACCORDANCE WITH PLANS AND SPECIFICATIONS FOR THE INSTALLATION OF STEEL BARRIER RAIL AROUND THE SAN LEANDRO ST./105<sup>TH</sup> AVE. UNDERPASS (PROJECT NO. C321730), AND WITH CONTRACTOR'S BID IN THE AMOUNT OF ONE HUNDRED TWENTY-SIX THOUSAND TWO HUNDRED TWENTY DOLLARS (\$126,220.00)**

**WHEREAS**, the barrier rails protecting motorists and pedestrians were stolen and removed and require replacement for public safety; and

**WHEREAS**, the barrier rails were stolen while the site was barricaded and under the control of the Bay Area Rapid Transit District (BART), during the construction of seismic upgrades to its adjacent aerial track; and

**WHEREAS**, BART under a prior agreement with the City, has agreed to reimburse the City for the portion of the barrier rail that was stolen with its construction zone which corresponds to forty-eight percent (48%) of the total replacement costs; and

**WHEREAS**, this project was advertised on February 12, 2015 and three bids were received by the Office of the City Clerk on March 12, 2015; and

**WHEREAS**, Mosto Construction, bidding as a prime, is deemed the lowest responsive and responsible bidder for the project; and

**WHEREAS**, Mosto Construction complies with all LBE/SLBE and trucking requirements; and

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

- Measure B (Fund 2211); Engineering Design: Streets & Structures Organization (92242); Street Construction Account (57411); Project C321730; 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 that this contract is of a professional, scientific or technical nature; 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 the City Administrator is authorized to award a construction contract for the Installation of Steel Barrier Rail Around the San Leandro St./105<sup>th</sup> Ave. Underpass (Project No. C321730) to Mosto Construction, the lowest responsive and responsible bidder, in accord with the project plans and specifications and with contractor's bid dated March 12, 2015, in the amount of One Hundred Twenty-Six Thousand, Two Hundred Twenty Dollars (\$126,220.00); and be it

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

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to enter into a contract with Mosto Construction, on behalf of the City of Oakland and to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to negotiate with the second lowest bidder and/or next lowest bidder for the same awarded amount, if Mosto Construction fails to return the complete signed contract documents and supporting documents within the days specified in the Special Provisions without going back to City Council; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared for this project, including any subsequent changes during construction that will be reviewed and adopted by the Director or designee, are hereby approved; 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.

JUN 17 2015

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

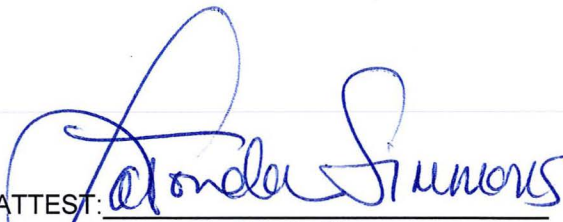
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, ~~KAPLAN~~, REID, AND PRESIDENT GIBSON MCELHANEY - 7

NOES - 0

ABSENT - 1 Kaplan

ABSTENTION - 0

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