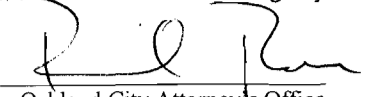


OFFICE OF THE CITY CLERK  
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Approved as to Form and Legality

  
Oakland City Attorney's Office

**OAKLAND CITY COUNCIL**  
RESOLUTION No. 81257 C. M. S.

**RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO MCGUIRE AND HESTER, THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, FOR THE TELEGRAPH AVENUE PHASE ONE STREETScape IMPROVEMENT PROJECT (P128840) FOR AN AMOUNT NOT-TO-EXCEED ONE MILLION TWO HUNDRED THIRTY-NINE THOUSAND FIVE HUNDRED SIXTY-THREE DOLLARS (\$1,239,563), AND ACCEPTING AND APPROPRIATING A CONTRIBUTION OF REDEVELOPMENT AGENCY FUNDS UNDER THE COOPERATION AGREEMENT FOR AN AMOUNT NOT-TO-EXCEED ONE MILLION SEVEN HUNDRED THIRTY-TWO THOUSAND TWO HUNDRED-ONE DOLLARS (\$1,732,201)**

**WHEREAS**, on March 17, 2008, the Office of the City Clerk of the City of Oakland received (6) six bids for the Telegraph Avenue Phase One Streetscape Improvement Project Phase One (P128840); and

**WHEREAS**, McGuire and Hester is the lowest responsive and responsible bidder for the Project and;

**WHEREAS**, the Telegraph Avenue Phase One Streetscape Improvement Project (the "Project") is located on Telegraph Avenue from 18<sup>th</sup> to 20<sup>th</sup> Streets and includes the following improvements:

- Replacement of existing deteriorated sidewalks with new concrete paving,
- Sidewalk and lighting improvements adjacent to the Fox Theater on the south side of 19<sup>th</sup> Street,
- Roadway resurfacing,
- Replacement with new and retrofit of existing streetlights,
- The addition of new pedestrian amenities including street trees, irrigation and tree grates, bike racks and trash receptacles:

and

**WHEREAS**, there are sufficient funds in the Project budget for an amount not to exceed One Million Seven Hundred Thirty-Two Thousand Two Hundred-One Dollars (\$1,732,201) for the work; and

**WHEREAS**, Redevelopment Agency funding for the Telegraph Avenue Streetscape Improvement Project Phase One is available in the FY 2005-07 Central District Redevelopment Project Subordinated Tax Allocation Bonds Series 2003 Fund (9532), Capital Improvement Projects Organization (94800), Contract Contingencies Account (54011), Downtown Streetscape Implementation Project (P128840); and

**WHEREAS**, the City and the Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Agency financial contributions and other assistance to support City public improvements; and

**WHEREAS**, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; 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 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 the contract for the Telegraph Avenue Phase One Streetscape Improvement Project (P128840) is hereby awarded to McGuire and Hester, the lowest responsive, responsible bidder, in accordance with the terms of the project plans and specifications prepared by the Deputy Director of the Community and Economic Development Agency – Design and Construction Services and the contractor’s bid dated March 17, 2008 in the amount of One Million Two Hundred Thirty-Nine Thousand Five Hundred Sixty-Three Dollars (\$1,239,563); and be it

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

**FURTHER RESOLVED:** That the bond amount for faithful performance will be 100% of the negotiated price, and the bond amount to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act, will be 100% of the bid amount, with respect to such work are hereby approved; and be it

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

**FURTHER RESOLVED:** That the City Council hereby finds and determines as follows:

1. That the funding of the Project by the Redevelopment Agency will benefit the Central District Project Area by improving the appearance of, and pedestrian safety and access on, Telegraph Avenue between 18<sup>th</sup> and 20<sup>th</sup> Streets;
2. That the City Capital Improvement Program (“CIP”) funds have been unable to provide financing for the Telegraph Avenue Phase One Streetscape Improvement Project in the CIP 2005-2010 Adopted Budget, and therefore no other reasonable means of financing the Project are available to the City other than Redevelopment Agency funding; and
3. That the use of tax increment funds from the Central District Project Area for the Telegraph Avenue Phase One Streetscape Improvement Project will assist in the elimination of blight in the Central District Project Area by installing streetscape improvements along Telegraph Avenue that will improve the appearance and functionality of Telegraph Avenue, and is consistent with the implementation plan adopted for the Central District Project Area; and be it

**FURTHER RESOLVED:** That the City Council hereby consents to the use of One Million Seven Hundred Thirty-Two Thousand Two Hundred-One Dollars(\$1,732,201) in Redevelopment Agency funds from the Central District Project Area, accepts such funds under the Cooperation Agreement, and appropriates such funds to the City of Oakland’s Redevelopment Agency Fund (7780), Capital Improvement Projects Organization (94800), in a City Project to be established for the Telegraph Avenue Phase One Streetscape Improvement Project, within the Community and Economic Development Agency – Design and Construction Services Division; and be it

**FURTHER RESOLVED:** That, the City finds and determines, based on the information in the staff report accompanying this resolution, that the Project is exempt from CEQA pursuant to Section 15301 (operation, repair, or minor alteration of existing structures or facilities) or Section 15302 (replacement or reconstruction of existing structures or facilities) of the CEQA guidelines; and be it

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

**FURTHER RESOLVED:** That the City Clerk is hereby directed to post conspicuously forthwith notice of the above rejection of all bids on the official bulletin board in the Office of the City Clerk; and be it

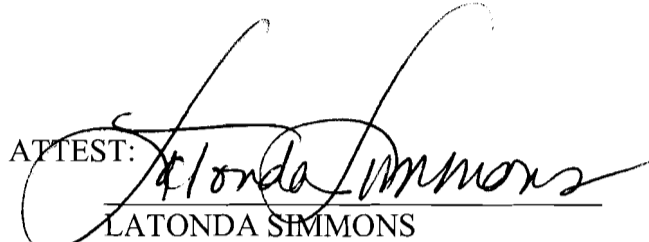
**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 6 2008, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE - 8

NOES - 0  
ABSENT - 0  
ABSTENTION - 0

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California