

CITY OF OAKLAND
COUNCIL AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2003 OCT -2 PM 1:49

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: October 14,2003

RE: RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND BERKELEY BUILDERS, INC., DBA BBI CONSTRUCTION (BBI) TO REIMBURSE BBI IN AN AMOUNT NOT TO EXCEED \$95,000 FOR EXPENSES FOR THE COMPLETION OF CONSTRUCTION OF LAFAYETTE SQUARE PARK

SUMMARY

This report proposes a resolution to enter into an agreement with BBI Construction, Inc., (BBI) in an amount not to exceed \$95,000 to reimburse BBI for construction expenses associated with the completion of Lafayette Square Park. In October 1997, the City entered into an agreement with Oakland Healthy City Fund (OHCF), a non-profit organization, for management of the Lafayette Square Park Improvement project, which was approved for funding under the Measure I parks bond program. OHCF subsequently entered into a construction contract with BBI. The park improvements were completed in September 2001. BBI has notified the City of additional work performed for which it has not been paid. Since the City's agreement with OHCF is expired, it is proposed that the City enter into an agreement directly with BBI to reimburse BBI for the unpaid construction costs. The additional construction work was incurred for mandated access and appropriate circulation and surfacing improvements.

Staff recommends that Council approve the proposed resolution

FISCAL IMPACTS

An amount not to exceed \$95,000 is available from Measure I funds from completed project balances.

BACKGROUND

In 1997, the City Council, by Resolution 73552 C.M.S., authorized an agreement with OHCF in the amount of \$1 million and the interest thereon from Measure I funds to provide design, construction and project management services associated with providing safe, accessible improvements to Lafayette Square Park. In 1998, Council authorized Resolution No. 74407 C.M.S. to amend the agreement with OHCF to allocate an additional \$100,000 for construction of a tot lot at Lafayette Square Park.

Item:# 10
Public Works Committee
10/14/03

In 1999, Resolution No. 75087 C.M.S. was approved by Council authorizing amending the agreement with OHCF to add an additional \$550,000 of unallocated interest earnings on unspent Measure I funds to the project.

The City executed the master agreement with OHCF in 1997. OHCF entered into a construction agreement with BBI in September 1998. Under the City's agreement with OHCF, the City reimbursed OHCF for expenses it incurred in connection with the improvements at Lafayette Square Park. The City's contract with OHCF expired in 2000. BBI completed the improvements in September 2001. The City expended all the funds due to OHCF under its agreement with the City. However, OHCF had approved change orders for BBI for additional work needed to complete the project.

When OHCF's agreement with the City expired and the funds appropriated under that agreement were fully expended, OHCF did not have the necessary funds to pay BBI. BBI submitted a claim against both the City and OHCF for reimbursement of the unpaid balance owed under its contract with OHCF. Consequently, BBI requested payment from the City for the unpaid work and submitted a claim against the City.

KEY ISSUES AND IMPACTS

During the course of the project, the City required additions and changes to the project that increased the total project cost. These included replacement of all public sidewalks, curb and gutter on the park perimeter and provision of curb cuts at key access points into the park to meet the Americans with Disabilities Act and federal safety standards. The City also requested a change of materials from asphalt pavers to granite pavers at the entrance to the park from 11th Street and Martin Luther King, Jr. Way. The project work was completed, and requires payment. Since BBI performed the construction work in good faith under its contract with OHCF and the City has the benefit of the improvements at Lafayette Square Park, it is proposed that the City pay BBI for the work it performed by directly entering into a reimbursement agreement with BBI.

SUSTAINABLE OPPORTUNITIES

Economic: The project has revitalized a blighted area, which will increase economic activity in the nearby vicinity.

Environmental: Enhancements in Lafayette Square Park utilized recycled rubber materials in the tot lot area, recycled wood products and natural materials in the circulation and seating areas. Energy efficient lighting was also incorporated into the park.

Social Equity: The project provides improved open-space amenities to the community, serving the neighboring residents and children as well as the public of the Old Oakland area.

DISABILITY AND SENIOR CITIZEN ACCESS

The renovated park and play equipment improvements comply with California Codes of Regulations, Title 24 and ADA Accessibility Guidelines and the Americans with Disabilities Act of 1990 providing access for seniors and people with disabilities

RECOMMENDATION(S) AND RATIONALE

Staff recommends approval of a resolution to enter into an agreement with BBI for an amount not to exceed \$95,000 to reimburse BBI for construction expenses associated with the completion of Lafayette Square Park. The resolution would allow staff to issue a reimbursement payment to BBI for additional expenses incurred for mandated access and appropriate circulation and surfacing improvements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council approve the aforementioned resolution.

Respectfully submitted,



CLAUDETTE R. FORD
Director, Public Works Agency

Prepared by:
Jeanne Zastera, Manager
Facilities, Planning & Development Division
Public Works Agency

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY MANAGER

Item:# 10
Public Works Committee
10/14/03

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 OCT -2 PM 1:49

RESOLUTION NO. _____ C. M. S.



Requires two-thirds vote of the Council

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND BERKELEY BUILDERS, INC., DBA BBI CONSTRUCTION (BBI) TO REIMBURSE BBI IN AN AMOUNT NOT TO EXCEED \$95,000 FOR EXPENSES FOR THE COMPLETION OF CONSTRUCTION OF LAFAYETTE SQUARE PARK

WHEREAS, the Oakland Healthy City Fund (OHCF), a California non-profit organization, entered into an agreement with the City on June 3, 1997 authorizing the OHCF to provide design, construction and project management services for Lafayette Square Park in Oakland (Resolution No. 73552 C.M.S.); and

WHEREAS, OHCF subsequently entered into an agreement with BBI in September 1998 for construction improvements at Lafayette Square Park; and

WHEREAS, OHCF does not have sufficient funds to complete payments to BBI; and

WHEREAS, BBI performed the construction work in good faith under its contract with OHCF and the City has the benefit of the improvements at Lafayette Square Park; and

WHEREAS, the City Council finds that the required project work is complete and the performance and payment of these services is in the public interest because of economy; now, therefore, be it

RESOLVED: that the Oakland City Council hereby authorizes an agreement between the City of Oakland and BBI in an amount not to exceed \$95,000 for expenses for the completion of construction of improvements at Lafayette Square Park; and be it

FURTHER RESOLVED: That the City Council hereby appoints the City Manager or her designee as agent to the City to conduct all negotiations, execute and submit all modifications, payment requests and related actions which may be necessary for the completion of this agreement in accordance with its specified purposes; and be it

10
PUBLIC WORKS CMTE.
OCT 14 2003

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality; and a copy will be on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST:

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

10
PUBLIC WORKS CMTE.
OCT 14 2003