

CITY OF OAKLAND
AGENDA REPORT

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: July 17, 2007

RE: **Resolution Authorizing The City Administrator To Purchase The Necessary Construction Services And Materials For The Historic East 18th Street Pier Overlook Reconstruction Project (C242212) On The Open Market In An Amount Not To Exceed One Million Three Hundred Thousand Dollars (\$1,300,000.00), Without Return To The City Council**

SUMMARY

A resolution has been prepared authorizing the City Administrator to purchase the necessary construction services and materials for the Historic East 18th Street Pier Overlook Reconstruction Project (C242212) on the open market in an amount not to exceed one million three hundred thousand dollars (\$1,300,000.00), without return to the City Council.

On June 19, 2007, the City Council approved Resolution No. 80661 C. M. S. rejecting all bids submitted for the Historic East 18th Street Pier Overlook Reconstruction Project (C242212) and waiving further competitive bidding requirements. Council also authorized staff to begin negotiations with the low bidder, Valentine Corporation.

As part of the negotiations, the Council requested staff to maximize Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation in the construction contract, and to describe the major scope changes in the project that are required to reduce the construction cost to meet the budget.

At the time of the writing of this report, the designer is reviewing the various value engineering options in order to bring the project within budget. As a result, the final scope of the project and the LBE/SLBE participation could not be finalized. Staff will present to Council, on July 17, 2007, a supplemental report with an update on the negotiations, LBE/SLBE and project scope revisions and a recommendation to authorize the City Administrator to purchase the necessary construction services and materials for the project on the open market without return to Council.

FISCAL IMPACT

The total construction budget available for the Historic East 18th Street Pier Overlook Reconstruction Project is \$1,430,000.00, which includes a 10% contingency. This funding is available from the following sources:

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- \$475,250.00 from Measure DD Series A Bond Fund (Fund 5320), Historic East 18th Street Pier Overlook Reconstruction Project (C242212).
- \$50,000.00 from Measure DD Series A Bond Fund (Fund 5320), Lake Merritt Retaining Walls Project (C242210).
- \$145,000.00 from Measure DD Series B Bond Fund (Fund 5320), Lake Merritt Retaining Walls Project (C242210).
- \$105,000.00 in grant funding from State Proposition 12 (Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) (Fund 2134) Historic East 18th Street Pier Overlook Reconstruction Project (G220110).
- \$47,000.00 from Measure DD Series A Bond Fund (5320), East 18th Street Gateway Project (C242115).
- \$607,750.00 from Measure DD Series B Bond Fund (5320), East 18th Street Gateway Project (C242115).

In the event the issuance of the Measure DD Series B Bond Fund is delayed and not in time for the payment of the construction contract, funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects which are on hold, and will be recovered from the Series B Bond when the funds do become available.

BACKGROUND

On April 16, 2007, the City Clerk received two bids for the project. The low bidder, Valentine Corporation of San Rafael, submitted a bid of \$1,569,369.00 which represents a difference of 48% above the engineer's initial cost estimate of \$1,064,000.00. The bid from Valentine Corporation was also non-responsive in that it contained only 10.13% LBE/SLBE subcontractors, which did not meet the City's LBE/SLBE program requirements of 20%. The other bidder, Vortex Marine Construction, Inc., was 122% above the estimate.

Staff has begun negotiating with Valentine Corporation and intends to maximize LBE/SLBE participation while meeting the available construction budget of \$1,300,000.00.

KEY ISSUES AND IMPACTS

The Council requested staff to maximize LBE/SLBE participation in the negotiated construction contract, and to describe the major scope changes in the project required to reduce the construction cost to meet the budget. Staff is presenting to Council a supplemental report and

update on the requested information with a recommendation to authorize the City Administrator to purchase the necessary construction services and materials for the project on the open market.

The City's Municipal Code, Title 2 Chapter 2.04.050 I (5) allows an exception to the competitive bidding process when it has been determined that it is not in the best interest of the City to formally bid the work. The formal bid process takes three to four months. Re-bidding the project a second time is not likely to provide any added interest or significantly different bid results and could result in higher prices.

Time is of the essence for completing the project because the funding package contains a State Proposition 12 (Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) grant with a remaining amount of \$105,000.00 that will expire on June 30, 2008. The State requires that all reimbursement requests for the grant be submitted by March 31, 2008. If construction of the project is not complete by March 31, 2008, there is a risk of losing all or a portion of the grant funding.

The approval of this resolution will help ensure the execution of a construction contract in time to begin construction and meet the grant deadlines. The construction duration is 4 months from the date of the Notice to Proceed and completion is anticipated in early 2008. The construction contract specifies \$1,000.00 in liquidated damages per calendar day, if the contractor fails to meet the contractual completion time.

SUSTAINABLE OPPORTUNITIES

Economic: The project will generate jobs for Oakland residents, and business tax, sales tax and other revenues for the City by those who work on the project.

Environmental: The project specifications include the construction waste reduction goal of 75%, which exceeds the City's Recycling and Waste Reduction Program goal of 75%.

Social Equity: With this project, neighboring residents and the community citywide will gain improved access to Lake Merritt, and the surrounding park. The improved facilities and site will provide enhanced recreational opportunities and promote civic pride.

DISABILITY AND SENIOR CITIZEN ACCESS

The existing pier limits access for people with disabilities and senior citizens because only one out of four access points to the pier are wheelchair accessible. The renovated facility will provide two additional access points that are wheelchair accessible. The renovated facility will provide a 2,200 square foot, accessible platform to enjoy views of Lake Merritt.

RECOMMENDATION AND RATIONALE

Staff recommends City Council approve the proposed resolution authorizing the City Administrator to purchase the necessary construction services and materials for the project on the open market in an amount not to exceed one million three hundred thousand dollars (\$1,300,000.00), without return to the City Council. Details of the negotiated contract will be provided to the Council in a supplemental report with information on the LBE/SLBE participation and the major modifications to the scope of work.


Sufficient funds are available to execute a \$1,300,000.00 construction contract and the contractor performing the contract will be required to maximize all the City local business and employment program participation.

Approval of the resolution and executing the construction contract will help ensure that the City receives full reimbursement of the State Proposition 12 (Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) grant in the amount of \$105,000.00 for the project in a timely manner.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends City Council approval of the proposed resolution authorizing the City Administrator to purchase the necessary construction services and materials for the Historic East 18th Street Pier Overlook Reconstruction Project on the open market in an amount not to exceed one million three hundred thousand dollars (\$1,300,000.00), without return to the City Council.

Respectfully submitted,

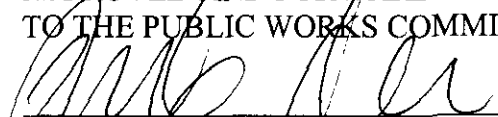
for 

Raul Godinez II, P.E.
Director, Public Works Agency

Reviewed by:
Michael Neary, P.E.
Assistant Director, Public Works Agency
Design and Construction Services Department

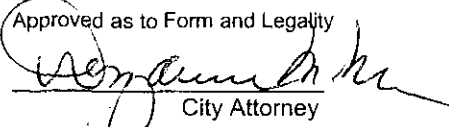
Prepared by:
Lyle Oehler
Capital Improvement Project Coordinator
Project Delivery Division

APPROVED AND FORWARDED
TO THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator

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Approved as to Form and Legality

City Attorney

OFFICE OF THE CITY CLERK
2007 JUL -5 PM 1:14

OAKLAND CITY COUNCIL

RESOLUTION No: _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO PURCHASE THE NECESSARY CONSTRUCTION SERVICES AND MATERIALS FOR THE HISTORIC EAST 18TH STREET PIER OVERLOOK RECONSTRUCTION PROJECT (C242212) ON THE OPEN MARKET IN AN AMOUNT NOT TO EXCEED ONE MILLION THREE HUNDRED THOUSAND DOLLARS (\$1,300,000.00), WITHOUT RETURN TO THE CITY COUNCIL

WHEREAS, on June 19, 2007, the City Council approved Resolution No. 80661 C. M. S. rejecting all bids submitted for the Historic East 18th Street Pier Overlook Reconstruction Project (C242212) and waiving further competitive bidding requirements; and

WHEREAS, Council authorized staff to begin negotiations with the low bidder, Valentine Corporation; and

WHEREAS, Council requested that staff provide information at the July 17, 2007, Council meeting regarding maximization of Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation in the negotiated construction contract, and to describe the major scope changes in the project required to reduce the construction cost to meet the budget; and

WHEREAS, staff is providing a supplemental report on the negotiated contract with information regarding the LBE/SLBE participation and proposed scope changes on the project; and

WHEREAS, Oakland Municipal Code Title 2, Section 2.04.050.J authorizes the City Administrator to “hire or have the services performed or purchase the supplies in the open market;” and

WHEREAS, funds totaling \$1,430,000.00 are available for the construction project and contingency from the following sources: \$475,250.00 from the Lake Merritt Retaining Walls Project allocated for the Historic East 18th Street Pier Overlook Reconstruction Project (C242212) from Measure DD Series A Bond Fund (Fund 5320); \$195,000.00 from the Lake Merritt Retaining Walls Project (C242210) under Measure DD Series A and Series B Bond Fund (Fund 5320); \$105,000.00 from State Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) (Fund 2134) allocated for the Historic East 18th Street Pier Overlook Reconstruction Project (G220110); and \$654,750.00 from the East 18th Street Gateway Project (C242115) under Measure DD Series A and Series B Bond Fund (Fund 5320); and

WHEREAS, in the event the issuance of the Measure DD Series B Bond Fund is delayed and not in time for the payment of the construction contract, funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects that are on hold, and will be recovered from the Series B Bond when the funds do become available; and

WHEREAS, time is of the essence because \$105,000.00 in grant funding from State Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) has been allocated for the Historic East 18th Street Pier Overlook Reconstruction Project and the State requires that all reimbursement requests be submitted by March 31, 2008, and the grant program will expire by June 30, 2008; and

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

RESOLVED: That pursuant to Oakland Municipal Code Section 2.04.050.J, the Council authorizes the City Administrator to purchase the supplies and services needed for the construction of the Historic East 18th Street Pier Overlook Reconstruction Project on the open market in an amount not-to-exceed one million three hundred thousand dollars (\$1,300,000.00) without return to the City Council; and, be it;

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to award a construction contract for the construction of the Historic East 18th Street Pier Overlook Reconstruction Project in an amount not-to-exceed one million three hundred thousand dollars (\$1,300,000.00) on the open market, without return to the City Council; 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 her designated representative, is hereby authorized to execute any amendments or modifications of said contract within the limitations of the project specifications and Council-approved contract amount without return to Council, and, be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications for the Historic East 18th Street Overlook Reconstruction Project (C242212); and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the Office of the City Attorney and filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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