

FILED  
OFFICE OF THE CITY CLERK  
CALLE 110

**OAKLAND CITY COUNCIL**

REVISED

**RESOLUTION No. 78366 - C.M.S.**

2004 FEB - 5 PM 4: 18  
INTRODUCED BY COUNCIL MEMBER

**Requires the two-thirds vote of the Council**



**RESOLUTION AUTHORIZING THE CITY MANAGER TO REJECT ALL BIDS FOR THE TEMESCAL POOL RENOVATION PROJECT, TO INFORMALLY RE-BID THE PROJECT, TO ~~NEGOTIATE A CONTRACT, IF NECESSARY,~~ AND TO AWARD A CONSTRUCTION CONTRACT WITHOUT RETURN TO CITY COUNCIL TO BBI CONSTRUCTION FOR AN AMOUNT NOT TO EXCEED SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000) IN THE AMOUNT OF SIX HUNDRED FORTY-NINE THOUSAND SIX HUNDRED SEVENTY-TWO DOLLARS (\$649,672)**

**WHEREAS**, the Temescal Pool Renovation project scope of work consists of the replacement of the pool filtration system and water piping, installation of a new shell lining, and other related work; and

**WHEREAS**, the Temescal Pool is a heavily used recreational facility in the summer months and it is highly desirable to complete the renovation work to make the pool available for the summer 2004 season; and

**WHEREAS**, on November 3, 2003, two bids were received by the Office of the City Clerk for the Temescal Pool Renovation project and these bids from Sierra Bay Contractors and Bay Construction were deemed non-responsive because both firms did not meet the City's Local/Small Local Business Enterprise program requirements nor did they document a good faith effort; and

**WHEREAS**, the bids from Sierra Bay Contractors and Bay Construction were both substantially over the engineer's estimate and thus should be rejected; and

**WHEREAS**, formally re-bidding and awarding the project will take three to four months and not allow for the project to be completed for the summer 2004 season; and

**WHEREAS**, the Oakland Municipal Code, Title 2, Section 2.04.050.I (5) allows an exception to the competitive bidding process when it is determined that it is not in the best interest of the City to formally bid the work; and

**WHEREAS**, informally re-bidding the project and negotiating a contract, if necessary, will accelerate the project schedule to allow for the completion of the renovation work for the summer 2004 season; and

**WHEREAS**, the lowest responsive and responsible bidder is required to meet the City's local and small local business and employment requirements; and

**WHEREAS**, on January 26, 2004, three informal bids were received by the Public Works Agency, Contract Administration Division for the project; and

**WHEREAS, BBI Construction is the lowest responsive and responsible bidder for the project from the informal re-bid process; and**

**WHEREAS, BBI Construction achieved 27% local and small local business participation and has met the City's program requirements; and**

**WHEREAS, there are sufficient funds in the project budget for the work; and**

**WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work;**  
and

**WHEREAS, 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 that services under this contract will be temporary; 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 Manager, or her designee, is hereby authorized to reject all previous bids; and be it

**FURTHER RESOLVED:** That the City Council finds it is in the best interests of the City to waive the formal bidding requirements; and be it

**FURTHER RESOLVED:** That the City Manager, or her designee, is hereby authorized to informally re-bid the project ~~and negotiate a contract, if necessary,~~ and to award and enter into a construction contract with BBI Construction without return to City Council for an amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) in the amount of Six Hundred Forty-Nine Thousand Six Hundred Seventy-Two Dollars (\$649,672); and be it

**FURTHER RESOLVED:** That the City Manager, or her designee, is hereby authorized to execute any amendments or modifications of said contract within the limitations of the project specifications; and be it

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

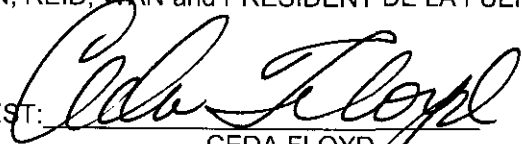
**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and be it

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

**FURTHER RESOLVED:** That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 17 2004, 2004  
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE - 8  
NOES- 0  
ABSENT- 0  
ABSTENTION- 0

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