

2007 JUN 27 PM 6:41
CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: July 10, 2007

RE: **Resolution Authorizing The City Administrator, Or Her Designee, To Award A Contract For The Construction Of The 66th Avenue, Oakland Waterfront Trail Project (Project No. C244310), For An Amount Not To Exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00), Or If All Bids Submitted Are Non-Responsive, To Reject All Bids, Waive Further Competitive Bidding Requirements, And Negotiate A Contract Within Budget, For An Amount Not To Exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) And Report The Bid Results To The City Council**

SUMMARY

A resolution has been prepared authorizing the City Administrator, or her designee, to award a contract for the construction of the 66th Avenue, Oakland Waterfront Trail project in an amount not to exceed one million two hundred thousand dollars (\$1,200,000.00) or if all bids submitted are non-responsive, to reject all bids, waive further competitive bidding requirements, and negotiate a contract within budget, for an amount not to exceed one million two hundred thousand dollars (\$1,200,000.00) and report the bid results to the City Council. The project is located in Council District 7.

This resolution has been prepared due to time constraints that require the expedited construction and completion of the 66th Avenue, Oakland Waterfront Trail project. A portion of the project funding (\$500,000.00) comes from the State Proposition 12 Continuous Shoreline Grant, which will expire in 2008. Final grant reimbursement for a completed project must be submitted to the State by March 2008, and thus construction must commence by September 2007 to meet this deadline. Also in accordance with wildlife regulatory requirements, it is necessary to perform the work during the period between September and February to avoid disruption of the potential habitat of the Salt Marsh Harvest Mouse and the Clapper Rail during the breeding season. Bid proposals for the construction of the project are currently being solicited and are scheduled to be submitted to the City on June 25, 2007. Staff will present information regarding the bid results in a supplemental report to the City Council at the July 10th Public Works Committee Meeting and the subsequent July 17th City Council meeting.

Item: _____
Public Works Committee
July 10, 2007

FISCAL IMPACT

The 66th Avenue, Oakland Waterfront Trail construction contract will be funded with \$475,000.00 from the Continuous Shoreline Grant – Prop 12 Per Capita Grant Program (Project G219910, Fund 2134) and \$725,000.00 from the Measure DD Oakland Trust for Clean Water and Safe Parks bond funds (Project C244310, Fund 5320).

The Contract Compliance fee and the Public Art fee have been allocated under Project C244310. The East Bay Regional Parks District (EBRPD) leases and operates the land from the Port of Oakland where this project is located. Staff is required to negotiate and enter into an operating and maintenance agreement with EBRPD to define each agency's responsibilities.

The City will maintain the new boardwalk, paved paths and plaza, retaining and seating walls and the site furnishings. There are no funds available for the operations and maintenance of this project and staff will need to be drawn from other areas to perform the maintenance. Service levels will decrease over all of the affected parks.

BACKGROUND

In September 2003, the Oakland Waterfront Trail Feasibility Study was completed and provided a basis for continuity and development of the Oakland Waterfront Trail. One recommendation of the Study was to construct and connect a trail approximately 6.6 miles long, parallel to the shoreline along the Estuary from Jack London Square to 66th Avenue. Funding for portions of the trail construction and improvements was provided through the "Oakland Trust for Clean Water and Safe Parks" general obligation bond (Measure DD). The 66th Avenue, Oakland Waterfront Trail project is one of the trail projects to be implemented. The project will provide greater access to the trail for the community and will be an important natural resource for educational programs. EBRPD currently brings school age children to the site to teach them about natural resources and the propagation of native plants, and the project will add amenities to enhance their educational experience as well as for others using the site.

Measure DD funding is being utilized to design and construct the project. Supplemental construction funding is through the State Proposition 12 Continuous Shoreline grant. The State grant was originally to be used for the construction of the Oakland Waterfront Trail at the Cryer site. However, the Cryer site project has been delayed for two years due to negotiations to determine the level of environmental remediation required by the State Water Resources Board. With the pending expiration of the State grant in March 2008, staff is shifting the grant to the 66th Avenue, Oakland Waterfront Trail project. Bid proposals for the project are being solicited and bids are scheduled to be submitted to the City on June 25, 2007.

KEY ISSUES AND IMPACTS

With the pending expiration of the State Proposition 12 Continuous Shoreline grant, it is important to expedite the award of a construction contract for the 66th Avenue, Oakland Waterfront Trail project. In accordance with wildlife regulatory requirements, it is also necessary to perform the construction between September and February to avoid disruption of the potential habitat of the Salt Marsh Harvest Mouse and the Clapper Rail during the breeding season.

Construction of the 66th Avenue, Oakland Waterfront Trail project will enhance the access and appearance of the shoreline trail at the foot of 66th Avenue and Zhong Way. The implementation of this project will bring the City closer to its goal of creating a continuous shoreline trail with first-rate amenities along the Oakland Estuary.

The site is owned by the Port of Oakland and leased by the East Bay Regional Park District. As such, the City of Oakland is required to enter into an Operations and Maintenance Agreement with the East Bay Regional Park District to define each agency's responsibility. The City will maintain the new boardwalk, paved paths and plaza, retaining and seating walls and the site furnishings that are installed on the site by the City. The Port of Oakland Board of Port Commissioners approved construction of the project by resolution on May 15, 2007.

The contract will be awarded to the lowest responsive and responsible bidder. The contractor awarded the construction contract will be required to meet the City's Local/Small Local Business Enterprise and local trucking programs. Additionally, the contractor will be required to have 50% of the work hours performed by Oakland residents and 50% of all new hires are to be Oakland residents.

However, if all bids submitted are non-responsive, staff requests that the City Administrator, or her designee, be authorized to reject all bids, waive further competitive bidding requirements, and negotiate a contract within budget that also maximizes local and small local business participation, for an amount not to exceed one million two hundred thousand dollars (\$1,200,000.00) and report the bid results to the City Council. The City's Municipal Code, Title 2, Section 2.04.050.I (2) and (5) allows waiver of competitive bidding when bidding would be unavailing or it is in the best interests of the City to waive bidding. In either case, staff will return to the City Council with the bid results.

Upon approval of the resolution, construction would be scheduled to begin in September 2007 and be completed by March 2008. The contract specifies \$1,000.00 in liquidated damages per calendar day if the contract completion time of 90 working days is exceeded.

PROJECT DESCRIPTION

The scope of work for the 66th Avenue, Oakland Waterfront Trail project consists of the construction of an outlook area that connects to the existing Bay Trail at the edge of the Martin Luther King Jr. Regional Shoreline Park. Construction includes crosswalk and curb ramp improvements, a series of urbanite and concrete retaining and seating walls, wooden boardwalks, oyster shell paving, and fencing, signage, and site furnishings.

Associated with this project is a public art component that will consist of 7 interpretive art stones, a bench and a shelter structure. This project will further the City's objective to create a continuous Waterfront Trail along the Estuary.

SUSTAINABLE OPPORTUNITIES

Economic: The construction of the project will generate business tax, sales tax, and other revenues for the City.

Environmental: The project will recycle construction debris to the extent feasible, will incorporate sustainable design elements, and will utilize recycled-content materials wherever possible.

Social Equity: The project enhances the basic recreational service levels and quality of life amenities for local residents, provides opportunities for outdoor experiences, and provides a space for children's educational programs.

DISABILITY AND SENIOR CITIZEN ACCESS

The project will provide full access to persons with disabilities and senior citizens. It will comply with the Americans with Disabilities Act and will conform to all community requirements related to disability and senior citizen access.

RECOMMENDATION AND RATIONALE

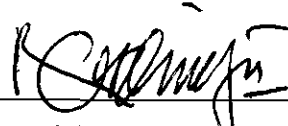
Staff recommends that the City Council approve the resolution authorizing the City Administrator, or her designee, to award a contract for the construction of the 66th Avenue, Oakland Waterfront Trail project in an amount not to exceed one million two hundred thousand dollars (\$1,200,000.00), or if all bids submitted are non-responsive, to reject all bids, waive further competitive bidding requirements, and negotiate a contract within budget, for an amount not to exceed one million two hundred thousand dollars (\$1,200,000.00) and report the bid results to the City Council.

Sufficient funding is currently available for the project, and the award of the construction contract will allow the work to be completed prior to the State Proposition 12 Continuous Shoreline grant reimbursement submission deadline of March 2008. The contractor who is awarded the construction contract will be required to meet all City business program requirements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,

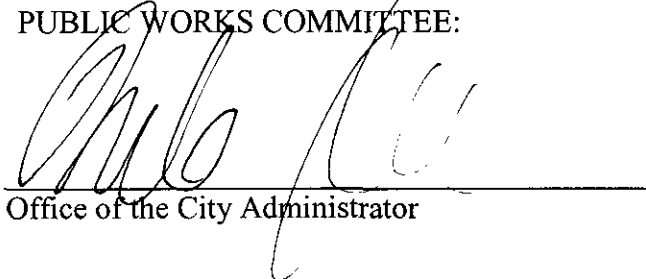


Raul Godinez II, P.E.
Director, Public Works Agency

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

Prepared by:
Diane Tannenwald, CIP Coordinator
Project Delivery Division

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:


Office of the City Administrator

Item: _____
Public Works Committee
July 10, 2007


City Attorney

OFFICE OF THE CITY CLERK

2007 JUN 23 10:00

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HER DESIGNEE, TO AWARD A CONTRACT FOR THE CONSTRUCTION OF THE 66TH AVENUE, OAKLAND WATERFRONT TRAIL PROJECT (PROJECT NO. C244310), FOR AN AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00), OR IF ALL BIDS SUBMITTED ARE NON-RESPONSIVE, TO REJECT ALL BIDS, WAIVE FURTHER COMPETITIVE BIDDING REQUIREMENTS, AND NEGOTIATE A CONTRACT WITHIN BUDGET, FOR AN AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00) AND REPORT THE BID RESULTS TO THE CITY COUNCIL

WHEREAS, construction documents for the 66th Avenue, Oakland Waterfront Trail Project have been prepared and construction bids are scheduled to be received on June 25, 2007; and

WHEREAS, it is necessary to expedite the completion of this project prior to the expiration of the State Proposition 12 Continuous Shoreline Grant; and

WHEREAS, due to wildlife regulatory requirements, it is necessary to expedite the completion of this project to minimize seasonal impacts to the habitat of the protected Salt Marsh Harvest Mouse and the Clapper Rail; and

WHEREAS, sufficient funds in the amount of \$1,200,000.00 are available from the Measure DD Bond (Fund 5320, Project No. C244310), and from the State Proposition 12 Continuous Shoreline Grant (Fund 2134, Project No. G219910); and

WHEREAS, if the City does not receive an acceptable bid, that the City Administrator will be authorized to negotiate a construction contract within budget for an amount not-to-exceed one million two hundred thousand dollars (\$1,200,000.00); and

WHEREAS, the City's Municipal Code, Title 2, Section 2.04.050.I (2) and (5) allows waiver of competitive bidding when bidding would be unavailing or it is in the best interests of the City to waive bidding; and

WHEREAS, the contractor will be required to meet the requirements of the City's L/SLBE, the Local Trucking, Local Employment and Apprenticeship Programs; 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; and

WHEREAS, the site is owned by the Port of Oakland and leased by the East Bay Regional Park District and the City of Oakland is required to enter into an Operations and Maintenance Agreement with the East Bay Regional Park District; now, therefore, be it

RESOLVED: That the City Administrator, or her designee, is hereby authorized to award a contract for the construction of the 66th Avenue, Oakland Waterfront Trail project to the lowest responsible bidder in accordance with the terms of its bid for an amount not-to-exceed one million two hundred thousand dollars (\$1,200,000.00) and to execute any amendments or modifications of said contract, within the limitations of the project specifications and report the bid results to the City Council; and be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to reject all other bids; and be it

FURTHER RESOLVED: That if no acceptable formal bids are received and pursuant to Oakland Municipal Code Section 2.04.050.I (5), the City Council hereby determines that it is in the best interests of the City to waive further advertising and bidding requirements; and be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to negotiate a contract for an amount not-to-exceed one million two hundred thousand dollars (\$1,200,000.00), if necessary; and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications for the 66th Avenue, Oakland Waterfront Trail Project (Project No. C244310); and be it

FURTHER RESOLVED: The amount of the bond for faithful performance, equal to the amount of the contract, 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, equal to the amount of the contract 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 for form and legality and placed on file in 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