

APPROVED AS TO FORM AND LEGALITY

2024 FEB 27 PM 1:27

FILED
OFFICE OF THE CITY CLERK
OAKLAND


Celso Ortiz (Dec 11, 2023 17:32 PST)
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 90050 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO 1) REJECT ALL BIDS, WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AND TO NEGOTIATE, AWARD, AND EXECUTE A CONSTRUCTION CONTRACT WITHOUT RETURN TO COUNCIL FOR AN AMOUNT NOT TO EXCEED FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$4,700,000) IN THE OPEN MARKET FOR THE CONSTRUCTION OF THE MAIN LIBRARY IMPROVEMENT PROJECT (PROJECT NO. 1004859), IN ACCORDANCE WITH PROJECT PLANS AND SPECIFICATIONS; AND 2) ADOPT APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS.

WHEREAS, the Main Library Improvement Project will provide needed maintenance and systems upgrades; and

WHEREAS, the City of Oakland (City) issued a Notice of Inviting Bids for the project on July 21, 2023, with three formal competitive bids received on September 28, 2023; and

WHEREAS, the Workplace and Employment Standards Department's determined that no bid was valid due to non-compliance with the fifty-percent minimum Local/Small Local Business Enterprise requirement; and

WHEREAS, the City Council approves rejection of all three bids as not valid; and

WHEREAS, the project has been publicly advertised and competitively bid, and further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, increase project costs and may not result in bids responsive to the project construction budget; and

WHEREAS, negotiating with a contractor will be required to meet the minimum local business participation; and

WHEREAS, the Oakland Municipal Code (OMC) Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interests of the City to do so and Section 2.04.050.J states that if no valid bids are received after advertising as required, the City

Administrator may proceed to hire or have the services performed or purchase the supplies in the open market; and

WHEREAS, this project advances Citywide priorities of holistic community safety, vibrant, sustainable infrastructure, and responsive, trustworthy government; and

WHEREAS, funds for the construction contract are available in Measure KK (5335); Award (23940); Capital Projects Organization (92270); Construction Account (57112); Main Library Phase 2 Renovation Project (1004859); Project Delivery Program (IN06) in the amount of \$2,459,000; and Measure KK (5335); Award (23940); Capital Projects Organization (92270); Construction Account (57112); Main Library Improvement Project (1003451); Project Delivery Program (IN06) in the amount of \$1,579,000; and

WHEREAS, additional funding for the construction contract will become available once appropriated from a State Library Grant, authorized through Resolution 89927 C.M.S.; and

WHEREAS, the City Council finds and determines, based on the representations set forth in the City Administrator's report accompanying this Resolution, that the construction contract approved hereunder is temporary in nature; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of the economy or better performance; 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 all bids are hereby rejected; and be it

FURTHER RESOLVED, That the City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding per OMC section 2.04.050.I.5 because further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, and may not result in bids responsive to the project construction budget and OMC section 2.04.050.J authorizes the City Administrator to proceed to hire or have the services performed or purchase the supplies in the open market when no valid bids are received after advertising as required; and be it

FURTHER RESOLVED: That staff will negotiate the scope of work in order to secure a contract to complete projects within the available budget; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to negotiate and execute a construction contract without return to Council for the for the Construction of The Main Library Improvements Project, Project No. 1004859, in accordance with the project plans, and specifications, in an amount not to exceed four million seven hundred thousand dollars (\$4,700,000.00); and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications, including any subsequent changes during construction, that will be reviewed and

adopted by the Assistant Director of the Oakland Public Works Department for this Project; and be it

FURTHER RESOLVED: That the successful contractor shall comply with all City contracting and compliance program requirements that apply to this contract, and be verified by the Workplace and Employment Standards Department; and be it

FURTHER RESOLVED: That the successful contractor shall provide faithful performance bond and a bond to guarantee payment of all claims for labor and materials furnished for the amount of 100% of the contract price and due under the Unemployment Insurance Act prior to the execution of the contract; and be it

FURTHER RESOLVED: That the Council finds that the project is exempt from CEQA pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304 (h) (minor alterations to land, and/or 15061 (b) (3) (No significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and be it

FURTHER RESOLVED: That the City Council directs the City’s Environmental Review Officer to file a Notice of Exemption with the Alameda County Clerk’s Office and appropriate agencies; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to approve any subsequent amendments to or extensions of said agreement, with the exception of those related to an increase in the total dollar amount of the agreement; and, be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

DEC 19 2023

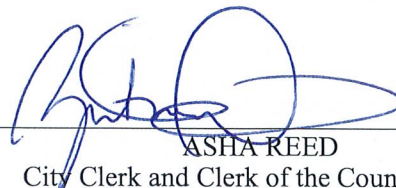
PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, ~~REID~~, AND PRESIDENT FORTUNATO BAS - 7

NOES ~~0~~
ABSENT ~~0~~
ABSTENTION ~~0~~

1 - Excused - Reid

ATTEST:


ASHA REED

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