

City Attorney

2018 FEB 15 PM 4:06

Revised by Public Works Committee at February 15, 2018 Meeting

## OAKLAND CITY COUNCIL

RESOLUTION No. 87057 = C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION REJECTING ALL BIDS, WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE, AWARD AND EXECUTE A CONSTRUCTION CONTRACT WITHOUT RETURN TO COUNCIL FOR AN AMOUNT NOT TO EXCEED THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$350,000) IN THE OPEN MARKET FOR THE CONSTRUCTION OF THE SAUSAL CREEK EROSION CONTROL RESTORATION PROJECT (NO. 1000839) IN ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS**

**WHEREAS**, in 2008 City Council authorized, per Resolution 81697 C.M.S., the City Administrator or his Designee to co-sponsor with the Friends of Sausal Creek a grant application to the Department of Water Resources Urban Streams Restoration Program for the Sausal Creek Erosion Control Restoration Project; and

**WHEREAS**, in 2012 the Department of Water Resources awarded a grant of \$540,000.000 to City of Oakland and the Friends of Sausal Creek to implement the Sausal Creek Erosion Control Restoration Project; and

**WHEREAS**, in 2013 City Council authorized, per Resolution 84644 C.M.S., the City Administrator or her Designee to appropriate up to \$540,000 in grant funds from the Department of Water Resources to the State of California Grant Fund (2159), Watershed and Stormwater Management Organization (30245), and Watershed and Stormwater Management Program (NB34); and

**WHEREAS**, in 2013 City Council authorized, per Resolution 84644 C.M.S., the City Administrator or her Designee to enter into a Memorandum of Understanding with Friends of Sausal Creek to formalize a division of roles and responsibilities for Project implementation; and

**WHEREAS**, on April 21, 2017 the City advertised the Sausal Creek Erosion Control Restoration Project No. 1000839 for bid and 1 bid was received in the amount of \$425,880 by the City Clerk on May 11, 2017; and

**WHEREAS**, the bid met the City's Local and Small Local Business Enterprise program as

reviewed by the Contracts and Compliance Unit and was significantly over the construction estimate of \$227,428; and

**WHEREAS**, 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**, advertising and competitive re-bidding will delay the construction project which is to be completed by December 31, 2018 before grant funds expiration; and

**WHEREAS**, there are sufficient funds in the project budget for the work under the following sources:

- State of California Other Fund (2159); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Sausal Erosion Control Project (No. 1000839); Stormdrain Management and Maintenance Program (IN14); and Award (20531)
- Measure DD Series C Clean Water Program Fund (5322); Watershed & Stormwater Program Organization (30245); Storm Drainage Account (57414); Creek Restoration-B (No. 1001190); Stormdrain Management and Maintenance Program (IN14); and Award (21926); 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 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 services; 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 and per Section 2.04.050.J that the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market since no valid bids are received after advertising as required; and be it

**FURTHER RESOLVED:** That the City Administrator, or Designee, is authorized to negotiate,

award and execute a construction contract without return to Council for the construction of the Sausal Creek Erosion Control Restoration Project No. 1000839 for an amount not to exceed of Three Hundred and Fifty Thousand Dollars (\$350,000); 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 City Administrator, or Designee, is authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That the successful contractor shall comply with all City contracting and compliance program requirements that apply to this contract, including Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation and be verified by the Contracts and Compliance Division; 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 and for the amount of 100% of the contract price and due under the Unemployment Insurance Act prior to execution of the contract; 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, FEB 20 2018

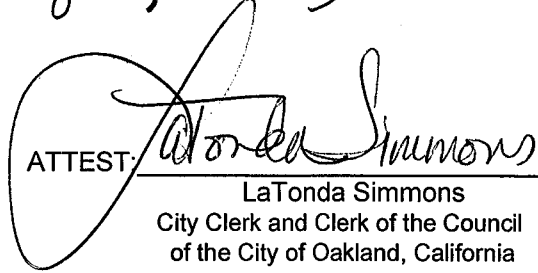
**PASSED BY THE FOLLOWING VOTE:**

AYES - ~~5~~ GALLO, GUILLEN, KALB, KAPLAN, GIBSON MCELHANEY,

NOES - ~~3~~ Exposed - Brooks, Campbell Washington, Reid - 3

ABSENT - 0

ABSTENTION - 0

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California