

APPROVED AS TO FORM AND LEGALITY



Celso Ortiz / (Lawyer) 2024.01.32 (PST)
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

1) AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT THAT FOLLOWS ALL CITY ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER IN ACCORD WITH PROJECT PLANS AND SPECIFICATIONS AND WITH THE CONTRACTOR'S BID FOR PROJECT NO. 1006066 MANDELA PARKWAY TRASH CAPTURE PROJECT FOR AN AMOUNT NOT TO EXCEED THREE MILLION SEVEN HUNDRED NINETEEN THOUSAND THREE HUNDRED THIRTY-THREE DOLLARS (\$3,719,333.00), CONTINGENT UPON CALTRANS APPROVAL OF ADDITIONAL FUNDING, WITHOUT RETURN TO CITY COUNCIL; 2) IF NO VALID BIDS ARE RECEIVED, AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT IN THE OPEN MARKET; 3) REJECTING ALL BIDS THAT WERE DUE OCTOBER 19, 2023; AND 4) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR PROJECT NO. 1006066 MANDELA PARKWAY TRASH CAPTURE PROJECT.

WHEREAS, the City of Oakland (City) is subject to the San Francisco Bay Regional Water Quality Control Board's (Water Board) National Pollutant Discharge Elimination System (NPDES), Municipal Regional Stormwater Permit (MRP) that regulates the discharge of stormwater; and

WHEREAS, all cities regulated by the MRP are required to reduce the amount of trash loads discharging from their storm drain systems by 100% by June 30, 2025, from baseline levels established circa 2009; and

WHEREAS, one of the principal and most effective ways that municipalities can meet trash load reduction targets is through the installation of devices approved by the Water Board that meet the definition of Full Trash Capture (FTC); and

WHEREAS, the Mandela Parkway FTC Project (Mandela Parkway Project) advances the Citywide priority of vibrant, sustainable infrastructure; and

WHEREAS, the City lacks the equipment and qualified or specialized personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is of a professional, scientific or technical nature; 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, due to a bid received on October 19, 2023 from a local contractor, McGuire and Hester, for 2.3 times the engineering estimate, and the Caltrans grant manager confirmed that the additional grant funding that would be needed for the project was not justifiable based on similar current projects; and

WHEREAS, Oakland Public Works worked with the Department of Workplace and Employment Standards (DWES) to conduct an availability analysis of the certified local and small local business enterprise (L/SLBE) contractors with the necessary experience, expertise, and credentials; and

WHEREAS, based on the results of the availability analysis, the L/SLBE requirement was set at 20%; and

WHEREAS, subject to the terms and conditions of a Cooperative Implementation Agreement, the California Department of Transportation (Caltrans) has agreed to provide an amount not to exceed four million eight hundred five thousand one hundred eighty-five dollars (\$4,805,185.00) to the City for the design and construction of the Mandela Parkway Project; and

WHEREAS, subject to the terms and conditions of the Cooperative Implementation Agreement (CIA) the City has agreed to implement the Mandela Parkway Project and to assume the operation and maintenance of the FTC facility; and

WHEREAS, a Notice to Proceed must be issued for the Mandela Parkway Project in March 2024, and the construction work must be completed during the dry season between April 1, 2024, and October 1, 2024, to meet the terms and conditions of the CIA and the MRP trash load reduction requirement; and

WHEREAS, Caltrans has committed to provide additional funding to the Mandela Parkway Project based on the final lowest responsive and responsible bid recommendation or on the final open market accepted and negotiated bid; and

WHEREAS, the City and Caltrans find that collaborating on the implementation of a FTC facility is a cost-effective, mutually beneficial approach to meeting the MRP trash capture and trash load reduction requirements; and

WHEREAS, the Mandela Parkway Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Alteration/Minor Addition to Existing Facilities) because the project is a minor alteration to an existing, publicly owned utility involving negligible or no expansion of an existing use; and

WHEREAS, if the project is not able to enter into a construction contract timely, the project will be unable to move forward and the City would be forced to forfeit \$3,719,333.00 in Caltrans grant funding and would lose 5.4 percent MRP trash load reduction credit that would need to be achieved through other less effective and more costly methods; now therefore be it

RESOLVED: That the City Administrator is authorized to award a construction contract for an amount not to exceed three million seven hundred nineteen thousand three hundred thirty-three dollars (\$3,719,333.00), to the lowest, responsible, and responsive bidder, for the Mandela Parkway Project (Project No. 1006066) and if no valid bids are received, to award the contract in the open market, without return to Council; and be it

FURTHER RESOLVED: That the Council rejects all bids received for the Mandela Parkway Project on October 19, 2023; and be it

FURTHER RESOLVED: That funding for the project is available in the following accounts: Mandela Parkway Full Trash Capture FTC Grant – Caltrans CIA (2140); Organization (#92245 and #30245); Project (1006066); and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate Caltrans CIA # D43CIAOAK0001 grant terms and conditions for the Mandela Parkway Project, including accepting additional grant funds, executing, modifying, amending, and extending the CIA, expending CIA grant funds, and taking all other actions with respect to the Caltrans CIA grant funding for the Mandela Parkway Project; and be it

FURTHER RESOLVED: That the City Administrator is authorized to appropriate additional funds should they be received for the Mandela Parkway Project through the Caltrans CIA # D43CIAOAK0001 in the following accounts: Mandela Parkway Full Trash Capture FTC Grant – Caltrans CIA (2140); Organization (#92245 and #30245); Project (1006066); and be it

FURTHER RESOLVED: That the City Administrator will provide an informational memorandum summarizing the bid result and compliance analysis result upon completion of the bid evaluation processes for the Mandela Parkway Project and after finalizing the result of negotiation by the City Administrator for any open market contracting; and be it

FURTHER RESOLVED: That the plans and specifications prepared for the Mandela Parkway Project, including any subsequent changes during construction, will be reviewed, and adopted by the Director of Oakland Public Works and are hereby approved; and be it

FURTHER RESOLVED: That the successful contractor shall comply with all City contracting and compliance program requirements that apply to the applicable contract, as verified by the DWES; and be it

FURTHER RESOLVED: That the successful contractor shall provide faithful performance bonds and a bond to guarantee payment of all claims for labor and materials furnished for 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 construction contract for the project 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; and be it

FURTHER RESOLVED: That the City Administrator is authorized to execute any amendments or modifications of the construction contract within the limitations of the project's specifications and this resolution; and be it

FURTHER RESOLVED: That the Council independently finds and determines that the Mandela Parkway Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, Alteration/Minor Addition to Existing Facilities; and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized to file a Notice of Exemption with the County of Alameda.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, RAMACHANDRAN, JENKINS and
PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
Asha Reed
City Clerk and Clerk of the Council
of the City of Oakland, California