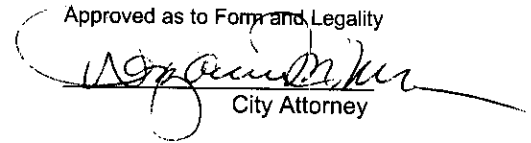


2007 JUN 14 PM 3:11

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No: 80661 C.M.S.

**RESOLUTION: 1) REJECTING ALL BIDS SUBMITTED FOR THE HISTORIC EAST 18<sup>TH</sup> STREET PIER OVERLOOK RECONSTRUCTION PROJECT (C242212); 2) WAIVING FURTHER COMPETITIVE BIDDING REQUIREMENTS; AND 3) AUTHORIZING THE CITY ADMINISTRATOR TO PURCHASE THE NECESSARY CONSTRUCTION SERVICES AND MATERIALS FOR THE PROJECT ON THE OPEN MARKET IN AN AMOUNT NOT TO EXCEED ONE MILLION THREE HUNDRED THOUSAND DOLLARS (\$1,300,000.00) AND, WITHOUT RETURN TO THE CITY COUNCIL FOR AWARD**

**WHEREAS**, the East 18<sup>th</sup> Street Pier was constructed in the early 1900's and is an important element in Lakeside Park and Lake Merritt, which are both a City of Oakland Landmark and a National Historic Landmark; and

**WHEREAS**, the renovation of the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project is identified in the Lake Merritt Park Master Plan of July 2002 as one of the major, high priority projects scheduled for implementation, and in November 2002 the Oakland voters passed Measure DD, the Oakland Trust for Clean Water, Safe Parks Bond Measure, to fund the construction of the project; and

**WHEREAS**, on April 16, 2007, two bids were received by the Office of the City Clerk for the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project (C242212) and both were non-responsive in that the bid from Valentine Corporation of San Rafael exceeded the engineer's estimate of \$1,064,000.00 by 48% and failed to meet the City's Local/Small Local Business Enterprise (L/SLBE) program requirements, and the bid from Vortex Marine Construction, Inc. of Oakland exceeded the engineer's estimate by 122% and three signed addenda required by the Notice Inviting Bids were not submitted with the bid; and

**WHEREAS**, the above described bid process did not render any valid bids and Oakland Municipal Code Title 2, section 2.04.050.J authorizes the City Administrator to "hire or have the services performed or purchase the supplies in the open market;" and

**WHEREAS**, funds totaling \$1,430,000.00 are available for the construction project and contingency from the following sources: \$475,250.00 from Measure DD Series A Bond Fund (Fund 5320), Lake Merritt Retaining Walls Project allocated for the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project (C242212), CIP Project Management Organization

(92270); \$300,000.00 from State Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) (Fund 2134) allocated for the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project (G220110), CIP Project Management Organization (92270); and \$654,750.00 from the East 18<sup>th</sup> Street Gateway Project (C242115) under Measure DD Series A and Series B Bond Fund (Fund 5320); and

**WHEREAS**, in the event the issuance of the Measure DD Series B Bond Fund is delayed and not in time for the payment of the construction contract, funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects that are on hold, and will be recovered from the Series B Bond when the funds do become available; and

**WHEREAS**, \$300,000.00 in grant funding from State Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) (Fund 2134) has been allocated for the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project (G220110) and the State has requested that all reimbursement requests be submitted by March 30, 2008, and the grant program will expire by June 30, 2008; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work and 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 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 the Council rejects the bids submitted by Valentine Corporation and Vortex Marine Construction, Inc., on April 16, 2007, as they were significantly over budget and failed to meet requirements of the Notice Inviting Bids; and, be it

**FURTHER RESOLVED**: That the City Council finds and determines that it is in the best interests of the City to waive further competitive bidding pursuant to Oakland Municipal Code Title 2, Chapter 2.04.050.I.5 and hereby does so because no valid bids were rendered in the bid process, Oakland Municipal Code Title 2, further competitive bidding would delay the project which may cause the City to miss the deadlines for the expenditure of grant funding from State Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000) and Oakland Municipal Code Title 2, section 2.04.050.J authorizes the City Administrator to "hire or have the services performed or purchase the supplies in the open market;" and, be it

**FURTHER RESOLVED**: That the City Administrator, or her designee, is hereby authorized to ~~award and negotiate~~ a construction contract for the construction of the Historic East 18<sup>th</sup> Street Pier Overlook Reconstruction Project in an amount not-to-exceed one million three hundred thousand dollars (\$1,300,000.00) on the open market, ~~and without return to the City Council for award~~; and, be it

**FURTHER RESOLVED**: The negotiated construction contract will require the contractor to meet all the City's local business and employment program requirements to the maximum extent feasible; and, be it

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

**FURTHER RESOLVED:** That the City Administrator, or her designated representative, is hereby authorized to execute any amendments or modifications of said awarded contract within the limitations of the project specifications and Council-approved contract amount without return to Council, and, be it

~~**FURTHER RESOLVED:** That the City Council hereby approves the plans and specifications for the Historic East 18<sup>th</sup> Street Overlook Reconstruction Project (C242212); and be it~~

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the Office of the City Attorney for form and legality and filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 19 2007, 2007

**PASSED BY THE FOLLOWING VOTE:**

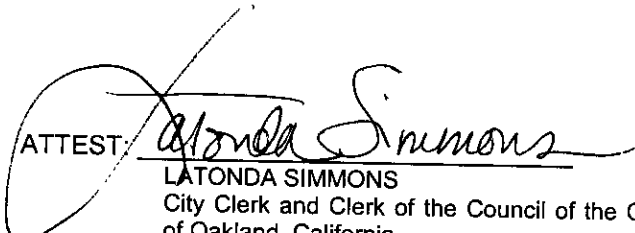
AYES - BROOKS, ~~Brunner~~, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE - 7

NOES - 0

ABSENT - Brunner - 1

ABSTENTION - 0

ATTEST:

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