

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved as to Form and Legality

  
City Attorney

2010 NOV -4 PM 1:02 **OAKLAND CITY COUNCIL**

**RESOLUTION No: 83073 C.M.S.**

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**RESOLUTION: 1) REJECTING ALL BIDS SUBMITTED FOR THE FRUITVALE AVENUE TO HIGH STREET, WATERFRONT TRAIL PROJECT (C395010), 2) WAIVING FURTHER COMPETITIVE BIDDING REQUIREMENTS, AND 3) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND PURCHASE THE NECESSARY CONSTRUCTION SERVICES AND MATERIALS IN ACCORD WITH PLANS AND SPECIFICATIONS FOR THE PROJECT ON THE OPEN MARKET IN AN AMOUNT NOT TO EXCEED ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000.00), WITHOUT RETURN TO CITY COUNCIL**

**WHEREAS**, Oakland voters passed Measure DD, the Oakland Trust for Clean and Safe Parks Bond Measure, to fund the construction of the various projects, including the Fruitvale Avenue to High Street Project; and

**WHEREAS**, on August 19, 2010, five bids were received from Vortex Marine Construction, Inc., Valentine Corporation, Bay Construction Co., Conquest Construction and Joseph J. Albanese, Inc., with bids ranging from \$1,320,811.45 to \$2,397,673.50; and

**WHEREAS**, the four bids from Vortex Marine Construction, Inc., Valentine Corporation, Conquest Construction and Joseph J. Albanese, Inc., were nonresponsive, and the bid from Bay Construction Co. exceeded the engineers estimate by \$95,349.00; and

**WHEREAS**, Oakland Municipal Code Section 2.04.050.I (5) permits the dispensing of advertising and bidding when it is in the best interests of the City, and Oakland Municipal Code Section 2.04.050.J authorizes the City Administrator to award a contract on the open market when no valid bids are submitted in response to a properly advertised bid solicitation; and

**WHEREAS**, since the City did not receive any acceptable bids in response to a properly advertised bid solicitation and an advertised re-bid round will delay the project by six to eight months, it is in the City's best interests to proceed with a negotiated contract and award on the open market to expedite improvements for the public welfare and local job opportunities associated with the project and avoid additional administrative costs; and

**WHEREAS**, funds totaling \$1,600,000.00 are available for the construction contract from Measure DD Series B Bond Fund (Fund 5321), Fruitvale Avenue to High Street Project (C395010), CIP Project Management Organization (92270); 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 this contract is professional, scientific or technical and temporary in nature, and 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 pursuant to Oakland Municipal Code Title 2, Chapter 2.04.050.I.5 and for the reasons stated in the City Administrator's report accompanying this Resolution and above, the City Council finds that it is in the best interests of the City to waive further advertising and bidding for the Fruitvale Avenue To High Street, Waterfront Trail Project (C395010), and so waives the requirements; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate and award a construction contract on the open market in accord with plans and specifications for the construction of the Fruitvale Avenue to High Street, Waterfront Trail Project (C395010) in an amount not to exceed \$1,600,000.00, without return to Council; and be it

**FURTHER RESOLVED:** That the bids submitted by Vortex Marine Construction, Inc., Valentine Corporation, Bay Construction Co., Conquest Construction and Joseph J. Albanese, Inc. are hereby rejected; and be it

**FURTHER RESOLVED:** The negotiated construction contract will require the contractor to meet all of the City's local business and employment program requirements; 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 Council hereby approves the plans and specifications for the Fruitvale Avenue to High Street Project (C395010) prepared at the direction of the Director of Public Works; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to execute any amendments or modifications to said agreement within the limitations of the project specifications; 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, DEC 7 2010, 2010

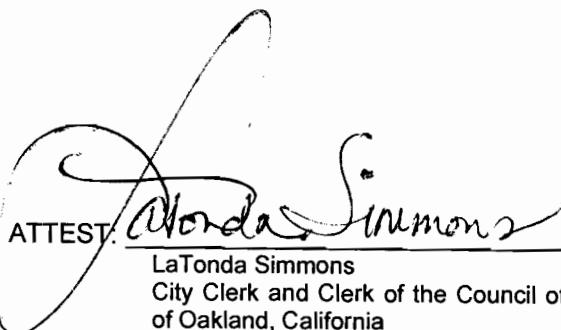
**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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