

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION: (1) REJECTING ALL BIDS FOR THE CONSTRUCTION OF THE MACARTHUR SMART CITY CORRIDOR 1 PROJECT NO. 1003981; (2) WAIVING FURTHER ADVERTISEMENT AND BIDDING; (3) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE WITH RAY'S ELECTRIC, THE ONLY RESPONSIVE AND RESPONSIBLE BIDDER AND IF SUCCESSFUL, AWARD THE CONTRACT TO RAY'S ELECTRIC IN AN AMOUNT NOT TO EXCEED TWELVE MILLION AND TWO HUNDRED THOUSAND DOLLARS (\$12,200,000.00); AND (4) IF NEGOTIATIONS WITH RAY'S ELECTRIC ARE UNSUCCESSFUL, THE CITY ADMINSTRATOR WILL AWARD THE CONTRACT IN THE OPEN MARKET; ALL THE ABOVE IN ACCORD WITH PROJECT PLANS, SPECIFICATIONS, AND STATE REQUIREMENTS; AND (5) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

**WHEREAS**, in the 2020 Alameda County Transportation Commission (ACTC) Comprehensive Investment Plan (CIP), funds were recommended for Oakland for the construction and implementation of three (3) projects during Fiscal Years (FY) 2019-20 and 2020-21, and MacArthur Smart City was one of the project; and

**WHEREAS**, \$9.5 million was allocated to MacArthur Smart City Project with \$1.231million match by the City; and

**WHEREAS**, the allocation and matching fund commitment of \$1.231 million was adopted in the Council Resolution 87960 C.M.S., November 21, 2019.

**WHEREAS**, on a separate and independent basis, the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning),Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; and

**WHEREAS**, the engineers' estimate for the construction work is nine million and five hundred and eight-six thousand and two hundred and seventy-eight dollars, and one cent (\$9,586,278.01); and

**WHEREAS**, on May 10, 2024, the City placed an advertisement in East Bay Times inviting construction bids; and

**WHEREAS**, on June 20, 2024, the Office of City Clerk received three bids in the amounts of \$12,625,787.00, \$13,481,390.00 and \$14,803,185.00, from Phoenix Electric Company, Gruendl Inc. dba Ray's Electric and Tennyson Electric, respectively for the MacArthur Smart City Corridor 1 Project No. 1003981; and

**WHEREAS**, the Department of Workplace and Employment Standards deemed Gruendl Inc. dba Ray's Electric the only responsive bidder per the Contract Compliance Memorandum with respect to meeting the requirements of the Local Business and Small Local Business Enterprise Program; and

**WHEREAS**, Ray's Electric bid (\$13,481,390) exceeded the engineers estimate by 40.63%; and

**WHEREAS**, Funds are available for the construction work in the total amount of twelve million and two hundred thousand dollars (\$12,200,000.00):

- ACTC Allocation in the amount of nine million and five hundred thousand dollars (\$9,500,000), Project 1003981, Organization 92270, Expense 57411, Task 8.0, Award 24056, Fund 2214, Program NB33.  
Measure BB funding in the amount of two million and seven hundred thousand dollars (\$2,700,000.00), Project 1003981, Fund 2218 ; 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 Council finds and determines that 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 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

**RESOLVED:** That all the preceding findings and determinations are hereby incorporated by reference and adopted herein by the Council; and be it

**FURTHER RESOLVED:** That the Council's approval of this resolution will reject all bid submissions for the MacArthur Smart City Corridor 1 Project (Project No. 1003981); and be it

**FURTHER RESOLVED:** The City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding and hereby waives these requirements; and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator to negotiate with Ray's Electric, the only responsive and responsible bidder and if successful, award the contract to Ray's Electric for the MacArthur Smart City Corridor 1 Project (Project No. 1003981) in an amount not to exceed \$12,200,000; and if such negotiations are unsuccessful, the City Administrator will award the contract in the open Market; 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 of 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 City Administrator is hereby authorized to approve and execute any subsequent amendments or modifications of the contract within the limitation of the project specifications, extensions, payment requests, applications for permits, agreements and execute all related actions for the completion of the Project without return to the City Council; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared for the Project, including any subsequent changes during construction, are/will be reviewed and adopted by the Director of the Department of Transportation, are hereby approved; 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; and be it

**FURTHER RESOLVED:** That the Council hereby finds and determines that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning); Section 15301 (existing facilities); Section 15302 (replacement or reconstruction); and Section 15309 (inspections); and each of the above exemptions provides a separate and independent basis for CEQA compliance; and be it

**FURTHER RESOLVED:** That the City Administrator shall file a Notice of Determination/Notice of Exemption with the Clerk of the County of Alameda for the Project that is named in this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California