

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK

2005 NOV 23 PM 5:05

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: December 13, 2005

RE: A RESOLUTION TO 1) AUTHORIZE THE CITY ADMINISTRATOR TO AWARD AND EXECUTE A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, BBI CONSTRUCTION, FOR THE CONSTRUCTION OF STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710) IN AN AMOUNT NOT-TO-EXCEED EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000.00), AND REJECT ALL OTHER BIDS, 2) RE-PROGRAM ADDITIONAL FUNDING OF TWO MILLION DOLLARS (\$2,000,000.00) FROM BROOKLYN BASIN AND MARINE MAX PROJECT (NO. C242710) TO STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710), AND 3) APPROPRIATE TWO MILLION DOLLARS (\$2,000,000.00) FROM MEASURE DD INTEREST FUNDS TO REPLENISH BROOKLYN BASIN AND MARINE MAX PROJECT (NO. C242710).

SUMMARY

On October 10, 2005, bids were received for the Studio One Art Center Rehabilitation project from pre-qualified contractors. Five bids were received and all bids exceeded the project budget. The Council is requested to approve a resolution to authorize the City Administrator, or her designee, to award and execute a construction contract to the lowest responsive, responsible bidder, BBI Construction, for the Studio One Art Center project (No. C244710) in an amount not-to-exceed eight million two hundred thousand dollars (\$8,200,000.00), and reject all other bids, re-program additional funding of two million dollars (\$2,000,000.00) from existing Measure DD project – Brooklyn Basin and Marine Max (Project No. C242710) to Studio One Art Center Rehabilitation project (No. C244710), and appropriate two million dollars (\$2,000,000.00) from Measure DD interest fund to replenish Brooklyn Basin and Marine Max (Project No. C242710).

The project is consistent with the Mayor and City Council Goal and Objectives No. 2D – Provide for clean, well-maintained facilities, amenities, parks and recreational facilities and No. 3A – Provide effective community programs for seniors, youth, and people with disabilities.

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FISCAL IMPACT

The total project budget is \$10.668 million. Funds available for construction are \$7.0 million. The engineer's construction estimate is \$6.5 million. Funding is available from the following sources:

- Measure DD General Obligation Bond Fund (5320) – Oakland Trust for Clean Water and Safe Parks, Capital Projects – Director's Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212), Project No. C244710, in the amount of \$10 million.
- Proposition 12, 2000, State of California Parks and Recreation Fund (2134), Park Bond Act – Murray Hayden Urban Youth Services Program, Project No. C196810, Capital Projects – Director's Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212), Project No. C196810 in the amount of \$473,000.00.
- In addition, the City has existing Municipal Capital Improvement Program Fund (5500), Project No. C71910, Director's Unit (Organization #92110), Capital Acquisitions, Building Additions and Improvement Account (#57212), in the amount of \$195,000.00 as matching funds for the State of California Park and Recreation - Murray Hayden Grant.

The resolution would provide for the additional funds of \$2 million to be reallocated from existing Measure DD first series projects that have been placed on hold due to land tenure issues. The existing Measure DD projects (Brooklyn Basin and Marine Max or other waterfront projects) would be reimbursed from earned interest income when the projects are closed. To date, there is approximately \$2 million in earned interest income available. While the City has an IRS-imposed deadline for spending Measure DD bond money, there is no deadline for spending the interest money. Therefore, it would be prudent for the City to use the Measure DD Bond fund first from a project that is currently on-hold.

Staff proposes reallocating the funds temporarily from the Brooklyn Basin and Marine Max project (No. C242710). This project is on hold while a private developer negotiates with the Port to build a boat mall on the site, including construction of this segment of the waterfront trail at no cost to the City. The additional funds for Studio One Art Center project will be placed in the existing Measure DD General Obligation Bond Fund (5320) – Oakland Trust for Clean Water and Safe Parks, Project No. C244710, Capital Projects – Director's Capital Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212). When Studio One Art Center project is completed, any remaining funds from the two million dollars will be returned to the Brooklyn Basin and Marine Max project (No. C242710).

The additional funds will not impact operation and maintenance costs previously reported to Council in June 2005. The project scope remains the same and anticipates the same incremental cost of \$20,000 over the past annual operation and maintenance cost of \$115,000.00 per annum for Studio One Art Center.

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BACKGROUND

The Studio One Art Center is a unique facility providing art programs that serve the entire City of Oakland. It is a building of historical significance to the North Oakland community as it was once owned by the Ladies Relief Society and used as an orphanage. Since the early 1990s, the community strongly advocated to keep the building and has worked with the City to develop a rehabilitation project to meet both community and City needs. Through the efforts of the Studio One Task Force, composed of a Council member, representatives of the Thousand Friends of Studio One (FOSO), and Oakland Studio One Arts Association (OSAA), the project finally became possible with the passage of Measure DD and allocation of City and State grant funds.

Project design began in February 2004 with the award of a design contract to Shah Kawasaki Architects (SKA), who was selected through a competitive public process. Design was completed in June 2005. Hazardous materials abatement was completed in September 2005. While design was finishing and hazardous material abatement was in progress, the City conducted a pre-qualification process for general contractors interested in bidding on the construction of the Studio One Art Center Rehabilitation.

In May 2005, the City issued a request for pre-qualification to pre-qualify contractors suitable for the project based on their capability, capacity, experience, and past performance records. In July 2005, five contractors out of ten firms who submitted pre-qualification statements were selected and placed on the pre-qualified list. The five firms selected were:

- Arntz Builders, Inc., Novato, CA
- BBI Construction, Oakland, CA
- Thompson Pacific Construction, Inc., San Rafael, CA
- Vance Brown, Inc., Oakland, CA
- West Bay Builders, Inc., Novato, CA

KEY ISSUES AND IMPACTS

On October 10, 2005, bids were received from the five pre-qualified firms. All five bids exceeded the estimated construction cost of \$6.5 million. Bids ranged from \$7.6 million to \$8.0 million, representing a difference of 15 percent to 22 percent above the cost estimate.

The project has existing total funds of \$7 million (\$6.5 million for construction and \$0.5 million for contingency use). In order to implement the construction, sufficient funds must be available for the contract and allow for sufficient contingency reserve.

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The five bids submitted are summarized in the table below from lowest to highest base bid:

Bidders:	West Bay	Arntz.	Thompson Pacific	Vance Brown	BBI
Base Bid	\$ 7,635,000	\$ 7,870,900	\$ 7,882,000	\$ 7,951,624	\$ 8,018,938
Alternate 1 -- Entry Balcony	\$ 100,000	\$ 65,780	\$ 90,000	\$ 123,113	\$ 75,000
Alternate 2 -- Tree Planting	\$ 10,000	\$ 6,600	\$ 7,000	\$ 6,959	\$ 8,000
Alternate 3 -- Permeable pavers	\$ 50,000	\$ 49,500	\$ 60,000	\$ 47,842	\$ 55,000
Alternate 4 -- Wood FSC Certif	\$ 20,000	\$ 15,150	\$ 50,000	\$ 125,807	\$ 5,000
Alternate 5 -- West roof reinf.	\$ 15,000	\$ 4,400	\$ 40,000	\$ 1,810	\$ 30,000

Construction Total – Base bid

with Alternates 1-5	\$ 7,830,000	\$ 8,012,330	\$ 8,129,000	\$ 8,257,155	\$ 8,191,938
Construction Budget	\$ 7,000,000	\$ 7,000,000	\$ 7,000,000	\$ 7,000,000	\$ 7,000,000
Funding Gap without Contingency:	\$ 830,000	\$ 1,012,330	\$ 1,129,000	\$ 1,257,155	\$ 1,191,938

**Funding Gap with 10%
Contingency for Change
Order Work:**

	\$ 1,613,000	\$ 1,813,563	\$ 1,941,900	\$ 2,082,870	\$ 2,010,332
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Analysis of Bids:

The close range of the bids (the spread of the five bids are within five percent of each other) is an indication that the contractors' understanding of the scope of work is consistent. Upon further comparison of the bids against the engineer's estimate, it appears that the engineer's estimate fell short in four major areas: general conditions (contractor's overhead and profit), building masonry repair, mechanical and electrical systems. Out of the above, general conditions has the highest overage cost. Contractors' bids here more than double the engineer's estimate. General conditions accounted for almost half of each bid overage. General conditions and overhead costs are an indication of a contractor's risk assessment of the project's complexity and of current market conditions. General contractors adjust these amounts based on their projection of potential changes in material or supply costs through the construction period, potential risks and uncertainties associated with a renovation project, and more recently reflect wide fluctuations in fuel costs affecting petroleum transportation and shipping costs.

In masonry repair costs, there is a wide disparity between the estimate and the bids. The project's cost estimator is concerned that there may be a quantity difference in the scope. This is an area that could allow clarification with the contractors. For the mechanical and electrical systems, the estimator identifies the current active market as the cause for the trade having the advantage in dictating the costs.

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The project also lists five bid alternates in addition to the base bid. The five bids in their respective priority order are: 1) Provide a new entry porch, 2) Complete tree landscaping at front entry way, 3) Install permeable paving at the existing parking area, 4) Reinforce the existing west roof structure for future photovoltaic (solar) panels, and 5) Obtain Forest Stewardship Council (FSC) certified wood product (which guarantees that the wood products used for the project come from an environmentally responsible source and certifies the product derives from a well-managed forest and tracks the forest product from initial harvest through processing, manufacturing, and distribution to the final destination point.). Item 3 and item 5 are related to sustainable design elements. The bid total for alternates one through five from the five contractors ranged from \$141,000.00 to \$305,531.00.

Additional Construction Fund

In order to award the construction contract with all alternates, \$1.7 million is needed to augment the original \$6.5 million construction budget for a construction award not to exceed \$8.2 million. Adding a project contingency of \$0.8 million (10 percent of construction contract), the total construction budget would become \$9.0 million, requiring additional funding of \$2 million more than the current \$7 million available for construction. Adequate contingency is important for this project because an historic building renovation is susceptible to unforeseen site conditions.

Without additional funds, the construction contract cannot be awarded without **major** scope changes and significant impact to the programs. The main construction cost is attributed to structural and building system upgrade for the existing building, constituting 55% of the construction cost. To reduce the project scope so that the construction award and contingency reserve is under the \$7 million dollar budget would require the project scope to be reduced by a minimum of \$1.7 million dollars, representing a reduction of 26% from the existing scope.

A scope reduction of this magnitude would impact the facility's programs since many of the popular programs at Studio One require above-standard mechanical and electrical systems. The reduction would require significant change in scope such as elimination of the mechanical system or eliminate improvements in an entire wing of the building. Elimination of a wing of the building would affect programs such as drama, painting, ceramics, glass making, and photography.

Non-responsive, Non-responsible and Rejection of Bids:

Within the five base bids, West Bay Builders, Inc. (West Bay) submitted the lowest bid. Arntz Builders, Inc. (Arntz) submitted the second lowest bid. Thompson Pacific Construction, Inc. (Thompson) submitted the third lowest bid. Vance Brown, Inc. (Vance Brown) submitted the fourth lowest bid, and BBI Construction (BBI) submitted the highest bid. For the reasons below, the first four bidders are non-responsive, non-responsible, or not eligible to participate in the bid process for this project.

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- **West Bay Builders:** West Bay's pre-qualification status has been rescinded and they are not eligible to participate in further bidding or negotiation for the Studio One or Lakeside projects because they failed to disclose that they were debarred by the City and County of San Francisco between March 2000 and September 2004 on the pre-qualification application for the Studio One and Lake Merritt Boathouse projects. After bids for Studio One were submitted, the City discovered the debarment. The pre-qualification questionnaire specifically asked applicants, under penalty of perjury, to disclose debarments by a government agency during the past five years. West Bay responded in the negative when in fact the San Francisco debarment was in effect in June 2005 when West Bay applied for pre-qualification. Failure to disclose the debarment disqualifies West Bay from participation in the pre-qualification process. Therefore, West Bay's bid submitted on October 10, 2005 for the project is recommended for rejection as non-responsible pursuant to Oakland Municipal Code (O.M.C.) Section 2.04.060.B, C, and D. O.M.C. Section 2.04.060.B, C, and D, authorize the City to consider the ability, capacity, skill, character, integrity, reputation, judgment, experience, and efficiency of the bidder to perform the contract in determining the lowest responsible bidder.
- **Arntz Builders, Inc.:** Arntz attempted to meet the pre-qualification requirements by utilizing the experience of a previous firm to demonstrate that they had the experience required for the project. Although Arntz Builders, Inc., applied for pre-qualification in their name, they provided revenue and project experience references for Arntz Builders Partnership (ABP), the name under which Arntz Builders, Inc., previously did business. While Arntz noted certain facts in the pre-qualification statement are based on ABP, other facts were not clearly noted. Had Arntz Builders, Inc. properly noted the distinction that the firm experiences listed were that of the previous firm, ABP, it would have been required at the time of pre-qualification review for Arntz to provide additional information and answer other pre-qualification questions about ABP's performance. In addition, the default of ABP, doing business as Arntz Builders, Inc., would have an impact in the evaluation of Arntz Builders, Inc. and made it ineligible for pre-qualification. Now that the default for ABP and its relationship to Arntz, as well as the experience qualification has been clarified, the applicant, Arntz Builders, Inc., is considered ineligible to participate in the pre-qualified contractors' pool for the Studio One or the Lake Merritt Municipal Boathouse projects. Therefore, Arntz bid for the Studio One project is not considered, as it would be unfair to the properly pre-qualified contractors, and is recommended for rejection.
- **Thompson Pacific Construction, Inc. and Vance Brown, Inc.:** Neither Thompson nor Vance Brown met the 20% Local Business Enterprise/Small Local Business Enterprise (LBE/SLBE) goals or the trucking requirement. Thompson's LBE/SLBE percentage fell short of the 20% requirement at 18.02%. Vance Brown failed to provide a subcontractor list with cost information, a violation of state and local subcontractor listing laws. The bids from Thompson and Vance Brown were, therefore, considered non-responsive and are recommended for rejection.

The remaining bidder, BBI meets all LBE/SLBE and trucking program requirements and is also a local firm.

City Administrator's Contract Compliance and Employment Services Division (Contract Compliance) has completed its review of the five bids and made its determination in terms of the compliance program. A copy of the compliance program evaluation findings, dated October 21, 2005, is attached as Exhibit A. Based on Contract Compliance's finding, none of the five firms meets Equal Benefit Program requirements. Contract Compliance will coordinate with the selected contractor to ensure it meets Equal Benefits requirements before the construction contract is executed.

PROJECT DESCRIPTION

Studio One Art Center is located at 365 – 45th Street, in the Temescal District. The project will rehabilitate the existing Studio One Art Center, a 20,000 square feet, U-shaped, 2-story, brick and wood-shingle building built in 1894. Rehabilitation includes major seismic upgrade, mechanical, plumbing and electrical system replacement, and architectural and site improvements to the historically significant building. The building is listed under City of Oakland's Preservation List with a designation of B+ rating (major importance), which is covered by the State Historical Building Code.

The rehabilitation project will provide a "state-of-the art" facility for art programs and provide an environment conducive to artistic creativity for arts and crafts activities that retains existing historic architectural characteristics. Studio One Art Center has been offering art programs since the 1950s. Some of the programs have temporarily relocated to the Malonga Casquelourd Center in downtown Oakland while Studio One is under rehabilitation.

The planned construction period for the Studio One Rehabilitation Project is 15 months from the notice-to-proceed for construction. If construction commences in January 2006, estimated completion of construction is March (Spring) 2007.

SUSTAINABLE OPPORTUNITIES

Economic: The project will provide additional employment opportunities during the construction of the facility. Upon completion of the rehabilitation project, the facility will allow expansion of programs and provide potential rental use of the facility, which in turn will generate more revenue for the City of Oakland.

Environmental: In collaboration with Alameda County Waste Management Authority, Studio One project incorporates a substantial number of sustainability design elements that will enhance the use of the building, conserve natural resources, utilize recycled content building products,

obtain alternative energy sources, reduce waste, and incorporate green operating and maintenance strategies.

Social: With this project, neighboring North Oakland residents, children and the community citywide will gain improved access to a treasured amenity. The improved Arts Center will provide updated building systems yet retain compatibility to the existing historical characteristics and continue to serve the community at large.

DISABILITY AND SENIOR CITIZEN ACCESS

The existing structure limits building access for people with disabilities and senior citizens as the site, restrooms, and the second floor are not wheelchair accessible. Studio One is one of the major city facilities scheduled for improvements in the City's federally-mandated Americans with Disabilities Act (ADA) Transition Plan. The renovated facility will comply with the California Code of Regulations, Title 24 and ADA Accessibility Guidelines. The renovated facility and site will include physical features such as disabled parking spaces, curb ramps and accessible walkways, accessible entrances, restrooms, drinking fountains, elevator, as well as full programmatic access.

RECOMMENDATION AND RATIONALE

It is recommended that the Council approve a resolution to:

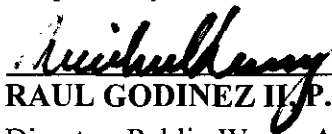
- Authorize the City Administrator, or her designee, to award and execute a construction contract to the lowest responsive, responsible bidder, BBI Construction, for the construction of Studio One Art Center Rehabilitation Project (No. C244710) in an amount not-to-exceed eight million two hundred thousand dollars (\$8,200,000.00) and reject all other bids, and
- Re-program additional funding of two million dollars (\$2,000,000.00) from Brooklyn Basin and Marine Max Project (No. C242710) to Studio One Art Center Rehabilitation Project (No. C244710) to Studio One Art Center Rehabilitation Project (No. C244710), and
- Appropriate funds of two million dollars (\$2,000,000.00) from Measure DD interest funds to replenish Brooklyn Basin and Marine Max Project (No. C242710)

Appropriation of the additional funds will allow for the award of the construction contract and ensure adequate contingency is available for a complex, historically significant, un-reinforced masonry building rehabilitation project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve a resolution to 1) authorize the City Administrator to award and execute a construction contract to the lowest responsive, responsible bidder, BBI Construction, for the construction of Studio One Art Center Rehabilitation Project (No. C244710) in an amount not-to-exceed eight million two hundred thousand dollars (\$8,200,000.00), and reject all other bids, 2) re-program additional funding of two million dollars (\$2,000,000.00) from Brooklyn Basin and Marine Max Project (No. C242710) to Studio One Art Center Rehabilitation Project (No. C244710), and 3) appropriate two million dollars (\$2,000,000.00) from Measure DD interest funds to replenish Brooklyn Basin and Marine Max Project (No. C242710).

Respectfully submitted,

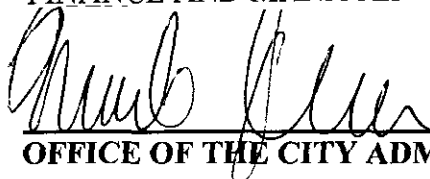
for 
RAUL GODINEZ II, P.E.
Director, Public Works Agency

Reviewed by:
Michael Neary, P.E.
Assistant Director, Public Works Agency
Design & Construction Services Department

Prepared by:
Lily Soo Hoo, CIP Coordinator
Project Delivery Division

Attachment: Exhibit A – Contract Compliance Evaluation Memorandum, 10/21/2005.

APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:


OFFICE OF THE CITY ADMINISTRATOR

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EXHIBIT A
OFFICE OF THE CITY ADMINISTRATOR
 Contract Compliance & Employment Services Division

Memo

To: Gwen McCormick - Contract Administrator Supervisor
From: Dasco Munoz - Contract Compliance Officer
Through: Deborah Barnes, CC.&ES Manager *Barnes*
Date: October 21, 2005
Re: Studio One Art Center Rehabilitation - Project Number C244710E

Contract Compliance & Employment Services reviewed five (5) bids in response to the above referenced project. Below is the outcome of our compliance evaluation for the twenty percent (20%) minimum participation requirement and a preliminary review for compliance with the Equal Benefits Ordinance (EBO).

Company Name	Bid Amount (If applicable)	Total L/SLBE	LBE	SLBE	Trucking	Total Credited	Preferences		Banked Credits Eligibility	EBO Compliant ? Y/N
							Bid Discounts	Adjusted Bid Amount		
West Bay Builders	7,635,000.00	20.10%	9.19%	10.90%	0%	20.10%	2%	\$7,482,300.00	0%	N
Arntz Builders, Inc.	7,870,900.00	27.76%	4.60%	23.16%	100.00%	27.76%	2%	\$7,713,482.00	0%	N
Thompson Pacific Const.	7,882,000.00	18.02%	9.26%	8.75%	0.00%	18.02%	0%	\$7,882,000.00	0%	N
Vance Brown	7,951,624.00	100.00%	100.00%	0.00%	0.00%	10.00%	0%	\$7,951,624.00	0%	N
BBI Construction	\$8,018,938.00	28.01%	16.60%	11.42%	100%	20.00%	2%	\$7,858,559.24	0%	N

As noted above, West Bay Builders met the 20% S/LBE requirement but did not meet the 20% trucking requirement. Arntz Builders and BBI Construction met or exceeded the 20% S/LBE requirement and met the 20% trucking requirement. Thompson Pacific Construction did not meet the 20% S/LBE and 20% trucking requirements. Vance Brown did not submit subcontractor dollars and therefore not in compliance with any of the requirements. All contractors are currently not in compliance with the Equal Benefit Ordinance (EBO).

Should you have any questions you may contact Dasco Munoz at 238-3970

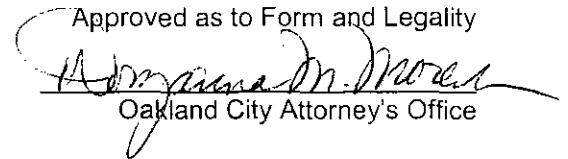
cc: Contract Compliance File

RECEIVED
 CONTRACT ADMINISTRATION
 2005 OCT 21 PM 3:16

OFFICE OF THE CITY CLERK
OAKLAND

2005 NOV 28 PM 5: 05

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No: _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION TO 1) AUTHORIZE THE CITY ADMINISTRATOR TO AWARD AND EXECUTE A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER, BBI CONSTRUCTION, FOR THE CONSTRUCTION OF STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710) IN AN AMOUNT NOT-TO-EXCEED EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000.00), AND REJECT ALL OTHER BIDS, 2) RE-PROGRAM ADDITIONAL FUNDING OF TWO MILLION DOLLARS (\$2,000,000.00) FROM BROOKLYN BASIN AND MARINE MAX PROJECT (NO. C242710) TO STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710), AND 3) APPROPRIATE TWO MILLION DOLLARS (\$2,000,000.00) FROM MEASURE DD INTEREST FUNDS TO REPLENISH BROOKLYN BASIN AND MARINE MAX PROJECT (NO. C242710).

WHEREAS, Studio One Art Center is an existing facility identified for renovation and rehabilitation under Capital Improvement Plan for FY2003-2005 budget and in accordance with Measure DD passed by the Voters on November 5, 2003; and

WHEREAS, on October 10, 2005, five bids were received by the Office of the City Clerk of the City of Oakland for the Studio One Art Center Rehabilitation Project (No. C244710) and all bids exceeded project estimate; and

WHEREAS, it came to the City's attention that although the City required bidders to disclose whether they had been debarred within the past five years in the pre-qualification phase, the lowest bidder had not disclosed a debarment within the past five years in a nearby jurisdiction which disqualified the firm from the process; and

WHEREAS, reference checks for the next low bidder disclosed a recent default in a nearby jurisdiction the fact of which rendered the firm ineligible for the pre-qualified pool or to participate in the bidding process for the Studio One project; and

WHEREAS, the next two bidders in line did not meet City's Compliance Programs in Local Business Enterprise/Small Local Business Enterprise; and

WHEREAS, BBI Construction is the lowest responsive, responsible bidder for the project and has met the Local Business Enterprise/Small Local Business Enterprise requirements; and

WHEREAS, project fund exists in Measure DD General Obligation Bond Fund (5320) – Oakland Trust for Clean Water and Safe Parks, Project No. C244710, Capital Projects – Director’s Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); in Proposition 12, 2000, State of California Parks and Recreation Fund (2134), Park Bond Act – Murray Hayden Urban Youth Services Program, Project No. C196810, Capital Projects – Director’s Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); in Municipal Capital Improvement Program Fund (5500), Project No. C71910, Director’s Unit (Organization #92110), Capital Acquisitions, Building Additions and Improvement Account (#57212); and

WHEREAS, additional funding is required to award the construction contract; and

WHEREAS, the proposed additional funding would be temporarily reallocated from the Brooklyn Basin to Marine Max project (No. C242710), an existing Measure DD project that is on hold; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work; and

WHEREAS, 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 contract for the Studio One Art Center Rehabilitation Project (No. C244710) is hereby awarded to BBI Construction, the lowest responsive, responsible bidder, in accordance with the terms of its bid therefore, dated October 10, 2005, in an amount not-to-exceed eight million two hundred thousand dollars (\$8,200,000.00); and, be it

FURTHER RESOLVED: That the plans and specifications prepared by the Director of Public Works for this project are hereby approved; and, be it

FURTHER RESOLVED: That pursuant to Oakland Municipal Code Section 2.04.060.B, C, and D, the Studio One Art Center Rehabilitation Project (No. C244710) bid from West Bay Builders, Inc. is hereby rejected as non-responsible due to their failure to disclose information concerning debarment within the past five years that was required in the pre-qualification application for that project; and, be it

FURTHER RESOLVED: That the Studio One Art Center Rehabilitation Project (No. C244710) bid from Arntz Builders, Inc. is hereby rejected because Arntz did not have the project experience necessary to become a pre-qualified bidder for the project; and, be it

FURTHER RESOLVED: That all other bids are hereby rejected as non-responsive; and, be it

FURTHER RESOLVED: That additional fund of two million dollars (\$2,000,000) is re-programmed from the existing Brooklyn Basin and Marine Max Project (No. C242710), a Measure DD Series A project, to the Studio One Art Center Rehabilitation Project (No. C244710) and place the funds in Measure DD Fund 5320, Capital Projects – Director’s Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); and be it

FURTHER RESOLVED: That Measure DD interest funds will be appropriated to reimburse two million dollars (\$2,000,000.00) to Brooklyn Basin Marine Max Project (No. C242710); and be it

FURTHER RESOLVED: That at the completion of the project for Studio One Art Center Project (No. C244710), any unused portion of funds from the two million dollars (\$2,000,000.00) will be returned to the Brooklyn Basin Marine Max Project (No. C242710) or a waterfront project designated in Measure DD Bond; and be it

FURTHER RESOLVED: That the contractor shall provide 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 approve any subsequent amendments, modifications, or extensions of said agreement, provided that such amendments or extensions shall be approved as to form and legality by the City Attorney’s Office and filed with the Office of the City Clerk; and, be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the Office of the City Attorney and filed with the Office of the City Clerk; and, be it

FURTHER RESOLVED: That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND PRESIDENT OF THE COUNCIL DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST:

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