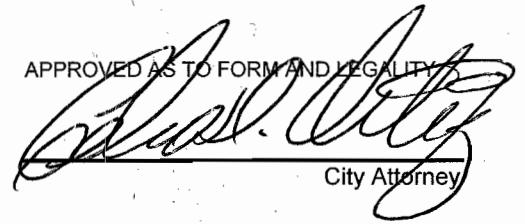


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JUL 31 AM 11:33

APPROVED AS TO FORM AND LEGALITY


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81502 C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR THE CITY ADMINISTRATOR'S DESIGNEE, TO AWARD A CONSTRUCTION CONTRACT TO STAR CONSTRUCTION, INC., FOR THE DERBY AVENUE TO LANCASTER STREET SEGMENT OF THE OAKLAND WATERFRONT TRAIL (PROJECT NO. C243610) IN THE AMOUNT OF ONE MILLION THREE HUNDRED SIXTY-FIVE THOUSAND TWO HUNDRED AND ONE DOLLARS (\$1,365,201.00) AS PREVIOUSLY APPROVED IN SUMMER RECESS RESOLUTION NO. 81493 C.M.S., PASSED JULY 15, 2008

WHEREAS, the City Council approval of this Resolution authorizes the City Administrator, or their designee, to award a contract for the Derby Avenue to Lancaster Street segment of the Oakland Waterfront Trail (Project No. C243610) to the lowest, responsive and responsible bidder to be selected upon bidding of the project for an amount not to exceed one million nine hundred thousand dollars (\$1,900,000.00); and

WHEREAS, the Derby Avenue to Lancaster Street segment of the Oakland Waterfront Trail completes a much needed gap between the Park Street and Fruitvale Bridges and is a much needed project to provide the community with year-round recreational opportunities; and

WHEREAS, the Derby Avenue to Lancaster Street segment of the Oakland Waterfront Trail is part of the project that was analyzed in the Environmental Impact Report for the City of Oakland Bond Measure DD Project, which was certified on April 1, 2008 (EIR); and

WHEREAS, the City, as Lead Agency under the California Environmental Quality Act (CEQA), has independently reviewed and considered the environmental effects of the project as shown in the EIR and other information in the record; and

WHEREAS, the City hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the Project and incorporates mitigation measures to substantially lessen or avoid potentially significant impacts where feasible in accordance with CEQA; and that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Project or

the circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects, and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and

WHEREAS, on June 9, 2008, the City Clerk received four bids for the Derby Avenue to Lancaster Street, Oakland Waterfront Trail Project and the lowest, responsive, and responsible bid of \$1,365,201.00 was submitted by Star Construction, Inc.; and

WHEREAS, sufficient funds are available for the construction project and contingency from the following sources:

- \$410,000.00 from the Federal Recreation Trails Program Administered by the California State Parks (Projects Nos. C243711 and Project No. to be determined, Fund 2134)
- \$200,000.00 from the Coastal Conservancy, Association of Bay Area Governments, San Francisco Bay Trail Project (Project No. to be determined, Fund 2159)
- \$300,000.00 from the Third Cycle Congestion Mitigation and Air Quality funds from the TLC/HIP Program (Project No. to be determined, Fund 2164)
- \$598,800.00 from the SAFTEA Third Cycle Congestion Mitigation and Air Quality Program grant (Project No. to be determined, Fund 2164)
- \$391,200.00 from the Measure DD Oakland Trust for Clean Water and Safe Parks bond funds (Project Nos. C243510 & C243610, Fund 5320).

WHEREAS, due to the use of Federal grant funds, Department of Transportation (DOT) guidelines are used to administer this project and the City's Local Business Enterprise programs are not applicable to the contract and were not required; and

WHEREAS, the project has been classified as race neutral under the DOT Implementation Agreement; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work and the City Council finds and determines that services under this contract will be temporary and 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 service; and

WHEREAS, the City Council previously approved the Derby Avenue to Lancaster Street segment of the Oakland Waterfront Trail (project no. C243510) in its Summer Recess Resolution No. 81493 C.M.S., passed July 15, 2008; now, therefore, be it

RESOLVED: That the City Administrator, or the City Administrator's designee, is hereby authorized to award a construction contract to Star Construction, Inc., for the Derby Avenue to Lancaster Street segment of the Oakland Waterfront Trail (Project No. C243610) in the amount of one million three hundred sixty-five thousand two hundred and one dollars (\$1,365,201.00); and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications for the Derby Avenue to Lancaster Street, Oakland Waterfront Trail Project (Project No. C243610); and be it

FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is hereby authorized to execute any amendments or modifications of said contract, within the limitations of the project specifications without return to Council; and be it

FURTHER RESOLVED: The amount of the bond for faithful performance, \$1,365,201.00, and the amount for a bond to guarantee payment of all claims for labor and material furnished and for the amount due under the Unemployment Insurance Act, \$1,365,201.00 with respect to such work and hereby approved; and be it

FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is hereby authorized to reject all other bids; and be it

FURTHER RESOLVED: That should additional funds be received for this project, the City Administrator, or the City Administrator's designee, is hereby authorized to accept and appropriate the same for the purposes described above; and be it

FURTHER RESOLVED: That the record before the City on this matter includes the information set forth in the Public Resources Code § 21167.6(e), including, without limitation, all final staff reports and final documentation and information produced by or on behalf of the City including, without limitation, the Draft EIR and the Final EIR for the Measure DD Implementation Project and supporting final technical studies and appendices, and all related and supporting material, and all final notices relating to the Project and attendant hearings and meetings; all oral and written evidence received by the City Planning Commission, and City Council during the public hearings on the Project; all written evidence received by relevant City staff before and during public hearings on the Project and appeal; and all matters of common knowledge and all official enactment of the City such as the General Plan and Oakland Municipal Code, other applicable City policies and regulations and all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City's decision is based are respectively: (a) the Community & Economic Development Agency, Projects Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA; (b) the Community & Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA.

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. and be it

FURTHER RESOLVED: That should Star Construction, Inc., not be able to meet all of the contract or program requirements then the contract shall be awarded to the next lowest, responsive, and responsible bidder.

IN COUNCIL, OAKLAND, CALIFORNIA, AUG 12 2008, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES- APPROVED DURING CITY COUNCIL RECESS

ABSENT- PURSUANT TO RESOLUTION NO. 79006 CMS

ABSTENTION- C.M.S., DATED 01-04-05

ATTEST: 

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