



Celso Ortiz (Oct 5, 2022 12:07 PDT)

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION (1) WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, (2) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT TO THE LOWEST BIDDER BELIVEAU ENGINEERING CONTRACTORS FOR THE FOOTHILL BOULEVARD PEDESTRIAN SAFETY IMPROVEMENT PROJECT, PROJECT NO. 1005163, IN AN AMOUNT NOT TO EXCEED SIX HUNDRED FORTY-THREE THOUSAND AND ONE HUNDRED TEN DOLLARS (\$710,135.00) IN ACCORD WITH PROJECT PLANS AND SPECIFICATIONS, CONTRACTOR'S BID, CITY CONTRACTING PROGRAMS AND STATE REQUIREMENTS AND (3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, on August 25, 2021 the City of Oakland ("City") was awarded a Transportation Development Act (TDA) grant to fund the Foothill Boulevard Pedestrian Safety Improvement Project (Project No. 1005163); and

WHEREAS, the engineer's estimate for the Project is six hundred thirty-four thousand and five hundred dollars (\$634,500); and

WHEREAS, on April 1, 2022, the City placed an advertisement in six newspapers inviting construction bids; and

WHEREAS, on April 28, 2022, the Office of the City Clerk received three bids for the construction of the Foothill Boulevard Pedestrian Safety Improvement Project (Project No. 1005163); and

WHEREAS, the Contract Compliance Division of the Department of Workplace and Employment Standards deemed all bidders non-responsive per the Contract Compliance Memorandum; and

WHEREAS, the Foothill Boulevard Pedestrian Safety Improvement Project (Project No. 1005163) includes grant funds and local measure funds for construction; and

WHEREAS, there are sufficient funds in the project budget for the construction work:

- TDA Grant in the amount of three hundred fifty-three thousand and five hundred dollars (\$353,500), Project 1005163, Organization 92270, Expense 57411, Task 8.0, Award 24056, Fund 2162, Program NB33.
- Measure KK funding in the amount of two hundred eighty-nine thousand and nine hundred ten dollars (\$356,635), Project 1005163, Organization 92270, Expense 57411, Task 8.0, Award 23941, Fund 5335, Program NB33; and

WHEREAS, Oakland Municipal Code (OMC) section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsible, responsive bidder if award is made; and

WHEREAS, OMC section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interest of the City to do so; and

WHEREAS, staff recommends that pursuant to OMC section 2.04.050 I. 5, that it is in the best interests of the City to waive the advertising and bidding requirements of OMC section 2.04.050 because it will provide much needed safety for pedestrians with minimum delay; and

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 City Council finds that the City lacks the equipment and qualified personnel to perform the necessary work and that the performance of this contract is in the public interest because of economy or better performance; and

WHEREAS, the City Administrator has determined 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 all other bids for the Foothill Pedestrian Safety Improvement Project (Project No. 1005163) are rejected; and be it

FURTHER RESOLVED: That the Council finds that pursuant to Oakland Municipal Code Section 2.04.050.I.5, for the reasons stated above and in the City Administrator's report accompanying this resolution, that it is in the best interests of the city to waive the advertising and bidding requirements of OMC 2.04.050 for the services, supplies or combination thereof to be purchased under the proposed contract and so waives the requirements; and be it

FURTHER RESOLVED: That the approval of this resolution will authorize the City Administrator to negotiate, with the lowest bidder to meet all Contract City contract requirements including without limitation, the Local And Small Local Business Enterprise Program requirements and project plans and specifications, and State requirements; and be it

FURTHER RESOLVED: That the approval of this resolution will authorize the City Administrator, upon successful negotiations, to award a construction contract on behalf of the City in an amount not to exceed \$710,135 to Beliveau Engineering Contractors, the lowest bidder for the Foothill Boulevard Pedestrian Safety Improvement Project (Project No. 1005163); and be it

FURTHER RESOLVED: That the plans and specifications prepared including any subsequent changes during construction, that will be reviewed and adopted by the Director of Department of Transportation or designee for this project are hereby approved; 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 on a separate and independent basis, the Council 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), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; 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 this project that is named in this resolution; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to execute any amendment 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 the file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

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