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OAKLAND

2009 DEC -3 PM 6:19

OAKLAND CITY COUNCIL

Resolution No. 82468 C.M.S.

Approved as to Form and Legality

Oakland City Attorney's Office

Introduced by Councilmember _____

RESOLUTION REJECTING ALL BIDS AND WAIVING ANY FURTHER ADVERTISING AND BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE STARTING WITH THE LOWEST BIDDER TO AWARD A CONSTRUCTION CONTRACT FOR THE LION CREEK RESTORATION PROJECT FOR AN AMOUNT NOT TO EXCEED FIVE HUNDRED FORTY THOUSAND DOLLARS (\$540,000.00) WITHOUT RETURNING TO COUNCIL

WHEREAS, City Council has directed staff to implement the Lion Creek Restoration Project per the following resolutions:

- Council Resolution No. 78750 C.M.S. on July 20, 2004 authorizing the expenditure of \$500,000 in Measure DD funds,
- Council Resolution No. 78816 C.M.S. on September 21, 2004 authorizing staff to apply for, accept, and appropriate \$500,000 in grant funds from the Habitat Conservation Fund Riparian Program of the California Wildlife Protection Act of 1990,
- Resolution No. 79018 C.M.S. on January 18, 2005 authorizing staff to accept and appropriate \$579,000 in funds from Union Pacific Railroad and \$70,000 in funds from the Oakland Army Base,
- Resolution No. 79485 C.M.S. on September 20, 2005 authorizing staff to apply for, accept and appropriate \$200,000 in grant funds from the Habitat Conservation Fund Trails Program of the California Wildlife Protection Act of 1990,
- Council Resolution No. 82136 C.M.S. on July 7, 2009 authorizing the City to enter into an Agreement with the Alameda County Flood Control and Water Conservation District and to authorize the expenditure of an additional \$395,000 in Measure DD Creek Restoration Funds; and

WHEREAS, construction bids for the Lion Creek Restoration Project were received on November 19, 2009; and

WHEREAS, bid proposals were received from McGuire and Hester, Bay Construction, B-side, McNabb Construction, Beliveau Engineering Contractors Inc., Clearly Bros. Landscape Inc.; and

WHEREAS, all six bid proposals were either deemed non-responsive or exceeded the engineer's estimate of cost of \$536,000; and

WHEREAS, it is necessary to expedite the completion of several project elements prior to the expiration of the California State Parks, Habitat Conservation Fund Riparian Program Grant on June 30, 2010; and

WHEREAS, waiving further advertising and bidding and authorizing the City Administrator to negotiate, starting with the lowest bidder, to award a contract will allow the project to stay cost-effective and to meet the State Grant deadline; and

WHEREAS, there are sufficient funds in the project budget for the construction work and contingencies totaling \$540,000.00 within the California State Parks, Habitat Conservation Fund Riparian Program Grant Fund (2134), Lion Creek Restoration Project (C300410), and within the California State Parks, Habitat Conservation Fund Trails Program Grant Fund (2134), Lion Creek Restoration Project (C300510), and within the Measure DD Series B Fund (5321); and

WHEREAS, the City's Municipal Code, Title 2, Section 2.04.050.I (2) and (5) allows waiver of competitive bidding when bidding would be unavailing or it is in the best interests of the City to waive bidding; and

WHEREAS, the contractor will be required to meet the requirements of the City's L/SLBE, the Local Trucking, Local Employment and Apprenticeship Programs; 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 that services under this contract are of a professional, technical or scientific and temporary nature; 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 service; now, therefore, be it

RESOLVED: That pursuant to Oakland Municipal Code Section 2.04.050.I.5 and based on the reasons stated herein and in the City Administrator's report accompanying this resolution, the City Council hereby finds and determines that it is in the City's best interests to waive further advertising and bidding for the construction contract for the Lion Creek Restoration Project (Project No. C244860) and so waives the requirements; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to reject all bids and negotiate starting with the lowest bidder and award a construction contract for the Lion Creek Restoration Project (Project No. C244860) in an amount not to exceed five hundred forty thousand dollars (\$540,000.00) without returning to Council; and be it

FURTHER RESOLVED: The contractor selected will be required to meet the City's local business and employment program and other contracting requirements; and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized, on behalf of the City of Oakland, to negotiate, apply for, accept, submit and execute all documents, including, but not limited to, applications, contracts, amendments, payment requests, and related actions for the completion of these projects; and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications for the Lion Creek Restoration Project; and be it

FURTHER RESOLVED: That the amount of the bond for faithful performance, equal to the amount of the contract, 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, equal to the amount of the contract with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney for form and legality.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN - 5 2010

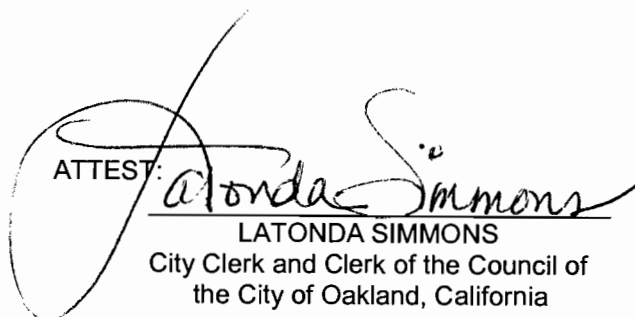
PASSED BY THE FOLLOWING VOTE:

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