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## OAKLAND CITY COUNCIL

RESOLUTION No: 80085 C.M.S.

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) REJECT THE SINGLE BID SUBMITTED FOR THE MUNICIPAL BOATHOUSE REHABILITATION AND PARK IMPROVEMENTS PROJECT (C241911); 2) WAIVE FURTHER COMPETITIVE BIDDING; 3) AUTHORIZE THE CITY ADMINISTRATOR, OR HER DESIGNEE, TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT TO BBI CONSTRUCTION FOR CONSTRUCTION OF THE MUNICIPAL BOATHOUSE REHABILITATION AND PARK IMPROVEMENTS PROJECT IN AN AMOUNT NOT-TO-EXCEED TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00); AND 4) APPROPRIATE THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000.00) FROM THE SAILBOAT HOUSE RENOVATION PROJECT (C242010) UNDER MEASURE DD SERIES B FUND TO THE MUNICIPAL BOATHOUSE REHABILITATION AND PARK IMPROVEMENTS PROJECT (C241911)**

**WHEREAS**, the renovation of the historic Lake Merritt Municipal Boathouse is identified in the Lake Merritt Park Master Plan of July 2002 as one of the major, high priority projects scheduled for implementation, and in November 2002 the Oakland voters passed Measure DD, the Oakland Trust for Clean, Safe Parks Bond Measure, to fund the construction of the project; and

**WHEREAS**, five general contractors were approved to bid on the project through the City's pre-qualification process; and

**WHEREAS**, on December 19, 2005, only one bid was received by the Office of the City Clerk for the Municipal Boathouse Rehabilitation and Park Improvement project (C241911) and the bid exceeded project estimate; and

**WHEREAS**, BBI Construction submitted the only bid for the project and their bid substantially exceeded the engineer's estimate and project budget; and

**WHEREAS**, funds totaling \$10,540,000.00 are available for the contract and contingency from the following sources: \$4,400,000.00 from Measure DD Series A Bond Fund (5320), Municipal Boathouse Rehabilitation Project (C241910 & C241911), CIP Project Management Organization (92270); \$1,121,000.00 from Measure DD Series A Bond Fund (5320), Municipal Boathouse Rehabilitation Project, previously re-allocated from the Sailboat House Renovation Project (C242011 & C242012), CIP Project Management Organization (92270), per Council Resolution No 79084 C.M.S. dated March 1, 2005; \$668,000.00 from Measure DD Series A Bond Fund (5320), Lake Merritt Retaining Walls Project allocated for Municipal Boathouse Rehabilitation Project (C242211), CIP Project Management Organization (92270); \$800,000.00 from Measure DD Series A Bond Fund (5320), Lake Merritt Pedestrian and Bicycle Pathway Improvement Project (C242310 & C242311), CIP Project Management Organization (92270); \$838,000.00 from Measure DD Series A Bond Fund (5320), Lake Merritt Systemwide

Improvement Project (C242110 & C242111), CIP Project Management Organization (92270); \$100,000.00, a donation from Rotary Clubs of Oakland #3, East Oakland, North Oakland/Emeryville, Oakland Sunrise and Piedmont/Montclair for the Lake Merritt Municipal Boathouse Entry Plaza per Council Resolution 79225 C.M.S dated May 17, 2005; \$2,124,000.00 from Measure DD Series B Bond Fund, Lake Merritt Pedestrian and Bicycle Pathway Improvement Project; \$489,000.00 from Measure DD Series B Bond Fund, Lake Merritt Systemwide Improvement Project; and

**WHEREAS**, additional funds totaling \$3,200,000.00 is required to award the construction contract from the Sailboat House Renovation project (C242010) under Measure DD Series B Bond Fund; and

**WHEREAS**, in the event the issuance of the Measure DD Series B Bond Fund is delayed and not in time for the payment of the construction contract, funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects are on hold, and will be recovered from the Series B Bond when the funds do become available; 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 City Council adopts the plans and specifications for the Municipal Boathouse Rehabilitation and Park Improvements Project; and, be it

**FURTHER RESOLVED**: That the City Council rejects the bid submitted by BBI Construction on December 19, 2005, for the Municipal Boathouse Rehabilitation and Park Improvement project as it substantially exceeded the engineer's estimated cost and budget; and, be it

**FURTHER RESOLVED**: That the City Council finds and determines that it is in the best interests of the City to waive further competitive bidding pursuant to Oakland Municipal Code Title 2, Chapter 2.04.050.I.5 and hereby does so because the first bid process did not render any responsible and responsive bid within budget and further competitive bidding would delay the project which may cause the City to miss the deadlines for expenditure of Measure DD funding and delay the execution of a lease agreement with the restaurant tenant; and, be it

**FURTHER RESOLVED**: That the City Administrator, or her designee, is hereby authorized to negotiate and award a construction contract to BBI Construction for the construction of the Municipal Boathouse Rehabilitation and Park Improvements Project in an amount not-to-exceed twelve million five hundred thousand dollars (\$12,500,000.00) in accord with project plans and specifications; and, be it

**FURTHER RESOLVED:** The negotiated construction contract will require contractor to meet all the City's local business and employment program requirements; and, be it

**FURTHER RESOLVED:** That additional funds of three million two hundred thousand dollars (\$3,200,000.00) from the Sailboat House Renovation project (C242010) under Measure DD Series B Fund will be appropriated to the Municipal Boathouse Rehabilitation and Park Improvements Project (C241911) and place the funds in Measure DD Fund 5320, CIP Project Management Organization (92270), Buildings Additions and Improvement Account (57212); 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 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

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 25 2006, 2006

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BRUNNER~~, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
~~PRESIDENT OF THE COUNCIL DE LA FUENTE~~ - 6

NOES - 0

ABSENT - 0

ABSTENTION - 1 Brooks

Excused - 1 De La Fuente

ATTEST:



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