

REVISED

OFFICE OF THE CITY CLERK
CITY OF OAKLAND

2006 JUL 29 AM 8:49

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 80072 C. M. S.

INTRODUCED BY COUNCILMEMBER _____

Requires two-thirds vote of the Council

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REJECT ALL BIDS, TO WAIVE FURTHER COMPETITIVE BIDDING AND TO NEGOTIATE AND AWARD A CONSTRUCTION CONTRACT FOR THE BROADWAY PHASE II AND III SIDEWALK IMPROVEMENT PROJECT (PROJECT NO. C194920) FOR AN AMOUNT NOT TO EXCEED TWO MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$2,850,000.00) WITH RETURN TO COUNCIL, AND ACCEPTING A FIVE HUNDRED THIRTY-EIGHT THOUSAND DOLLAR (\$538,000.00) CONTRIBUTION FROM THE REDEVELOPMENT AGENCY FOR THE PROJECT UNDER THE COOPERATION AGREEMENT

WHEREAS, on March 20, 2006, the Office of the City Clerk of the City of Oakland received two bids for the Broadway Phase II and III Sidewalk Improvement Project (Project No. C194920); and

WHEREAS, the lowest project bidder exceeded the engineer's estimate and did not meet the Alameda County Transportation Improvement Authority's (ACTIA's) Small Local Business Enterprise (SLBE) requirement; and

WHEREAS, the second lowest bidder exceeded the engineer's estimate, was 15% above the lowest bidder's amount, the bidder met ACTIA's Local Business Enterprise (LBE) and SLBE requirements, but was not in compliance with the City's Equal Benefits Ordinance; and

WHEREAS, the project is necessary to replace existing sidewalk along Broadway and to provide new street furniture and trees; and

WHEREAS, the project construction schedule is targeted to start before the rainy season; and

WHEREAS, this project has been bid once before, and additional re-bidding is impractical because it would delay the project by up to six months; and

WHEREAS, there are sufficient funds in the project budget for an amount not to exceed Two Million Eight Hundred Fifty Thousand Dollars (\$2,850,000.00) for the work; and

WHEREAS, funding totaling \$1,282,000.00 for Broadway Phase II is available in the Congestion Mitigation & Air Quality Fund (2164), Downtown Development Organization (88689), Structures & Improvements Account (57311), and Broadway Phase II Streetscapes Project (G273910); and

WHEREAS, funding totaling \$1,030,000.00 for Broadway Phase III is available in the ACTIA Reimbursable Grants Fund (2214), Capital Improvement Projects Organization (94800), Structures & Improvements Account (57311), and 14th & Broadway Transit Center project (C194920); and

WHEREAS, the Redevelopment Agency of the City of Oakland has authorized a contribution of \$538,000.00, including contingency, to fund the Broadway Phase II and III Project; and

WHEREAS, Agency funding for the Broadway Phase II and III Project is available in the FY 2005-07 Downtown Streetscape Improvement Project Implementation Funds (9533), Capital Improvement Project – Economic Development Organization (94800), Structures & Improvements Account (57311), Downtown Streetscape Implementation Project (P128830); and

WHEREAS, the City and the Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Agency financial contributions and other assistance to support City public improvements; and

WHEREAS, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; 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 all bids received for the Broadway Phase II and III Sidewalk Improvement Project (Project No. C194920) are hereby rejected; 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 the bond amount for faithful performance will be 100% of the negotiated price, and the bond amount to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act, will be 100% of the negotiated price, with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to negotiate with the most responsive and responsible bidder, as determined under ACTIA Program requirements, and if necessary, with the lower bidder to enter into a contract with the contractor on behalf of the City of Oakland and to return to Council for final approval in late September 2006; and be it

FURTHER RESOLVED: That the negotiated contract will comply with the ACTIA LBE and SLBE requirements as well as the City of Oakland's Local Employment Program, Local Trucking Program, and 15% Apprenticeship Program; and be it

FURTHER RESOLVED: That the City Council hereby finds and determines as follows:

1. That the funding of the project by the Redevelopment Agency will benefit the Central District Project Area by improving the appearance of, and pedestrian safety and access on, Broadway from 12th to 20th Streets;
2. That no other reasonable means of financing the Broadway Phase II and III Sidewalk Improvement Project are available to the City other than Redevelopment Agency funding; and
3. That the use of tax increment funds from the Central District Project Area for the Broadway Phase II and III Sidewalk Improvement Project will assist in the elimination of blight by installing streetscape improvements along Broadway in the Central District Project Area, and is consistent with the implementation plan adopted for the Central District Project Area; and be it

FURTHER RESOLVED: That the City Council hereby consents to the use of \$538,000.00 in Redevelopment Agency funds, including contingency, for the Broadway Phase II and III Sidewalk Improvement Project, and allocates such funds to the Oakland Redevelopment Agency Project fund (7780), within the Public Works Agency; and be it

FURTHER RESOLVED: That the City has independently reviewed and considered this environmental determination, and the City finds and determines, based on the information in the staff report accompanying this resolution, that the project is exempt from CEQA pursuant to Section 15301 (operation, repair, or minor alteration of existing structures or facilities) or Section 15302 (replacement or reconstruction of existing structures or facilities) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to post conspicuously forthwith notice of the above rejection of all bids on the official bulletin board in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and be it

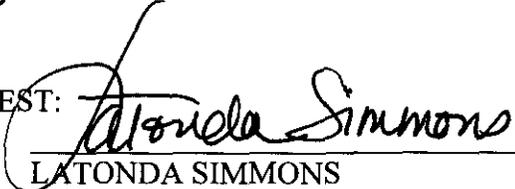
FURTHER RESOLVED: That the approval of this resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- ~~BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND~~
PRESIDENT DE LA FUENTE - 5

NOES - 0
ABSENT - 3 - Brooks, Kernighan, Nadel
ABSTENTION - 0

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

OFFICE OF THE CITY CLERK
2006 JUN 14 PM 12:14

APPROVED AS TO FORM AND LEGALITY:

BY:  AGENCY COUNSEL

**REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
2006-0059
RESOLUTION NO. _____ C.M.S.**

A RESOLUTION AUTHORIZING A CONTRIBUTION OF FIVE HUNDRED THIRTY-EIGHT THOUSAND DOLLARS (\$538,000.00) FROM THE CENTRAL DISTRICT REDEVELOPMENT PROJECT TO THE CITY OF OAKLAND UNDER THE COOPERATION AGREEMENT TO FUND THE BROADWAY PHASE II AND III SIDEWALK IMPROVEMENT PROJECT

WHEREAS, the Five Year Implementation Plan for the Central District Redevelopment Project, adopted on December 7, 2004 (Resolution No. 2004-67 C.M.S.), includes streetscape improvements within the project area; and

WHEREAS, the Broadway Phase II and III Sidewalk Improvement Project (the "project") is located on Broadway from 12th to 20th Streets within the boundaries of the Central District Redevelopment Project Area and includes the following improvements:

- Replacement of existing deteriorated sidewalks with new darkened concrete paving; and
- The addition of new pedestrian amenities including street trees and tree grates, benches, bike racks and trash receptacles.

and

WHEREAS, the City of Oakland (the "City") submitted an application to the Alameda County Congestion Management Agency (ACCMA) in June 2004 in order to fund Phase II of the Project and has received funds for the Project in the Congestion Mitigation & Air Quality Fund (2164), Downtown Development Organization (88689), and Broadway Phase II Streetscapes Project (G273910), of which \$1,282,000.00 is budgeted for construction; and

WHEREAS, the City submitted an application to the Alameda County Transportation Improvement Authority (ACTIA) in January 2003 in order to fund Phase III of the Project and has received funds in the ACTIA Reimbursable Grants Fund (2214), Capital Improvement Projects Organization (94800), and 14th & Broadway Transit Center Project (C194920), of which \$1,030,000.00 is budgeted for construction; and

WHEREAS, on March 20, 2006, the Office of the City Clerk of the City of Oakland received two bids for the Broadway Phase II and III Sidewalk Improvements Project (Project No. C194920); and

WHEREAS, the lowest project bidder did not meet ACTIA's Small Local Business Enterprise (SLBE) requirement; and

WHEREAS, the second lowest bidder met ACTIA's Local Business Enterprise (LBE) and SLBE requirements, but was 15% above the lowest bidder's amount, and was not in compliance with the City's Equal Benefits Ordinance; and

WHEREAS, the City Administrator will reject all bids, waive further competitive bidding and negotiate and award a construction contract for the Project in an amount not to exceed \$2,850,000.00; and

WHEREAS, the Redevelopment Agency desires to provide \$538,000.00 to fund the estimated shortfall in the construction budget; and

WHEREAS, the City and the Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Agency financial contributions and other assistance to support City public improvements; and

WHEREAS, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; and

WHEREAS, the City Council is consenting to the use of Agency funds for the Project; and

WHEREAS, the Agency agrees that the City is the Lead Agency for the project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore, be it

RESOLVED: That the Agency hereby authorizes the contribution of \$538,000.00 to the City under the Cooperation Agreement for the project, and the reallocation of such funds from Redevelopment Agency Central District Project Area Tax Allocation Bond funds from the FY 2005-07 Downtown Streetscape Improvement Project Implementation Funds (9533), Capital Improvement Projects Organization (94800), Downtown Streetscape Project (P128830) to the City, Oakland Redevelopment Agency Project Clearing Fund (7780), within the Public Works Agency; and be it

FURTHER RESOLVED: That the Agency hereby finds and determines as follows:

1. That the funding of the project will benefit the Central District Project Area by improving the appearance of, and pedestrian safety and access on, Broadway from 12th to 20th Streets;
2. That no other reasonable means of financing the Broadway Phase II and III Sidewalk Improvement Project are available to the City other than Redevelopment Agency funding; and
3. That the use of tax increment funds from the Central District Project Area for the Broadway Phase II and III Sidewalk Improvement Project will assist in the elimination of blight by installing streetscape improvements along Broadway in the Central District Project Area, and is consistent with the implementation plan adopted for the Central District Project Area; and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency finds and determines, based on the information in the staff report accompanying this resolution, that the project is exempt from CEQA pursuant to Section 15301 (operation, repair, or minor alteration of existing structures or facilities) or Section 15302 (replacement or reconstruction of existing structures or facilities) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the Agency hereby authorizes the Agency Administrator, or her designee, to take all actions necessary with respect to the Agency funding of the Project in accordance with this resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, **JUL 18 2006**, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- ~~Brooks~~, BRUNNER, CHANG, ~~McINNES~~, ~~MADE~~, QUAN, REID, AND
CHAIRPERSON DE LA FUENTE - 5

NOES- 0

ABSENT- 3, Brooks, Kernighan, Nadel

ABSTENTION-

ATTEST:



LATONDA SIMMONS
Secretary, Redevelopment Agency
of the City of Oakland