



City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO GALLAGHER & BURK, FOR THE ACTIVE TRANSPORTATION PROGRAM (ATP) 19<sup>TH</sup> STREET BART TO LAKE MERRITT URBAN GREENWAY PROJECT (PROJECT NO. 1003211), THE LOWEST, RESPONSIBLE, RESPONSIVE BIDDER, IN ACCORDANCE WITH PROJECT PLANS, SPECIFICATIONS, STATE REQUIREMENTS, AND WITH CONTRACTOR'S BID IN THE AMOUNT OF SIX MILLION FOUR HUNDRED THIRTY-NINE THOUSAND ONE HUNDRED FORTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$6,439,148.75); AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

**WHEREAS**, on June 1, 2015, the City of Oakland applied for and received a Active Transportation Program (ATP) grant to fund the 19<sup>th</sup> Street BART to Lake Merritt Urban Greenway Project (Project No. 1003211) ("Project"); and

**WHEREAS**, on January 19, 2016, the City Council passed Resolution No. 85956 C.M.S., which authorized the City Administrator to accept and appropriate the ATP grant for the Project; and

**WHEREAS**, on June 18, 2019, the City Council passed Resolution No. 87749 C.M.S., which authorized the City Administrator to enter into a fund pass through agreement and accept and appropriate BART Proposition 1B Bond funds for the Project; and

**WHEREAS**, the proposed Project is exempt from the CEQA pursuant to Public Resources Code Section 21080.25(b)(1) (Pedestrian and bicycle facilities, including new facilities) and Public Resources Code Section 21080.20.5 (restriping of streets for bicycle lanes); and

**WHEREAS**, the Project is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304(h) (minor alterations to land), and/or 15061(b)(3) (No Significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and

**WHEREAS**, the engineer's estimate for the Project is Five Million Six Hundred Twenty-Five Thousand One Hundred Fifty-Eight Dollars (\$5,625,158); and

**WHEREAS**, on November 13, 2020, the City invited bids for the Project by placing an advertisement in six newspapers; and

**WHEREAS**, on December 17, 2020, the Office of the City Clerk received three bids for the construction of the Project; and

**WHEREAS**, the City has determined that Gallagher & Burk, is the lowest, responsible, responsive bidder for the Project; and that the bid is compliant with the City's Equal Benefits Ordinance (EBO) and meet the Federal Disadvantaged Business Enterprise (DBE) 11% participation requirements; and

**WHEREAS**, the City received a federal grant for the construction of the Project, which has a local match requirement; and

**WHEREAS**, there are sufficient funds in the project budget for the construction work; and

- Federal grant in the amount of Three Million Three Hundred Thousand Five Hundred Fifty Dollars (\$3,300,550) in Active Transportation Program (ATP) 19th Street BART to Lake Merritt Urban Greenway Project (No. 1003211), Project Delivery Organization (92270), Street Improvements Account (57411), Department of Transportation Fund (2116), Construction Task (8.0), Award (23116)
- BART TIGER Grant in the amount of Seven Hundred Seventy-Four Thousand Seven Hundred Fifty Dollars (\$774,750) in Active Transportation Program (ATP) 19th Street BART to Lake Merritt Urban Greenway Project (No. 1003211), Engineering Design: Traffic/Parking Organization (92246); Street Improvements Account (57411), Miscellaneous Grants Fund (2999), Administration Task (1.0), Award (23909)
- Local match in the amount of Two Million Three Hundred Sixty-Three Thousand Eight Hundred Forty-Eight Dollars and Seventy-Five Cents (\$2,363,848.75) in Measure KK Complete Streets Project (No. 1003348), Engineering Design: Traffic/Parking Organization (92246); Street Improvements Account (57411), Measure KK Fund (5332), Administration Task (1.0), Award (23686)

**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 service is professional, scientific, or technical; 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 the contract for the construction of the ATP 19<sup>th</sup> Street BART to Lake Merritt Urban Greenway Project is hereby awarded to Gallagher & Burk, the lowest, responsible, responsive bidder, in accordance with project plans and specifications, state requirements and with contactor's bid in the amount of Six Million Four Hundred Thirty-Nine Thousand One Hundred Forty-Eight Dollars and Seventy-Five Cents (\$6,439,148.75); and be it

**FURTHER RESOLVED:** That all other bids are hereby rejected; 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 City Administrator is authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; 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 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 the Project is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304(h) (minor alterations to land), and/or 15061(b)(3) (No Significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and be it

**FURTHER RESOLVED:** That the City Administrator or designee shall file a Notice of Exemption with the clerk of the County of Alameda.

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