

APPROVED AS TO FORM AND LEGALITY


Carlos Ortiz (Julián, 2023, 2045, 2071)
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AWARD PEDESTRIAN RIGHT-OF-WAY CONSTRUCTION CONTRACTS TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, IN ACCORDANCE WITH PROJECT PLANS AND SPECIFICATIONS, EACH UP TO AN INDIVIDUAL CONTRACT AWARD OF SEVEN MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$7,500,000); AND FOR EACH ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS, WITHOUT RETURN TO CITY COUNCIL, TO ENABLE RAPID COMPLIANCE IN THE EVENT THE PARTIES OF CURRAN VS. CITY OF OAKLAND REACH SETTLEMENT.

WHEREAS, the City of Oakland (City) is committed to achieving full compliance with the Americans With Disabilities Act (ADA) and as such maintains a robust pedestrian right-of-way repair and construction program; and

WHEREAS, “pedestrian right-of-way construction contracts” are defined as any construction contract for construction within the public right-of-way in which at least 51% of the total estimated construction cost, (as determined by the engineer’s estimate), is attributable to pedestrian right-of-way improvements including curb ramps, curb and gutter, sidewalks, stairs, paths and ancillary work required for the construction of upgrades required by the ADA; and

WHEREAS, the parties of *Curran vs City of Oakland* is an ongoing class action lawsuit and the parties have been participating in mediation since 2023 with anticipated settlement; and

WHEREAS, significant efforts are underway to ensure construction of a record volume of sidewalk and curb ramp accessibility improvements in the next twenty-five years; and

WHEREAS, most of this construction will utilize pedestrian right-of-way construction contracts, including an estimated 10 bid processes each year; and

WHEREAS, preauthorized contracts enable the City to streamline contract awards; and

WHEREAS, the City Council finds and determines that all applicable steps should be taken to streamline the project delivery of pedestrian right-of-way construction projects; and

WHEREAS, the City Council finds and determines that quickly advancing pedestrian right-of-way construction contracts that have followed the provisions of the City Charter and Oakland Municipal Code Chapter 2.04 (Oakland Purchasing Ordinance) and all applicable City contracting programs to ensure fair and competitive bidding practices is in the best interest of the City; and

WHEREAS, pedestrian right-of-way projects are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(c) (Existing Facilities, Highways and Streets); and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, and the performance of pedestrian right-of-way construction contracts awarded under the provisions of this resolution is in the public interest and the interest of the City to satisfy the *Curran vs. City of Oakland* negotiated settlement agreement; and

WHEREAS, the City Council finds and determines that the performance of pedestrian right-of-way construction contracts awarded under the provisions of this resolution 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: When the parties of *Curran vs City of Oakland* reach settlement, then the City Administrator is authorized to award all pedestrian right-of-way construction contracts to the lowest responsive and responsible bidder, in accordance with project plans and specifications, each up to an individual contract award of seven million, five hundred thousand dollars (\$7,500,000.00) during the term of the *Curran vs City of Oakland* consent decree, without return to City Council; and be it

FURTHER RESOLVED: That the authorization to the City Administrator to award pedestrian right-of-way construction contracts does not waive the City of Oakland's other Purchasing Ordinance requirements, such as advertising and fair and competitive bidding requirements without return to Council, including Section 14.16.2 of the current Memorandum of Understanding between the City and Local 1021 that the City shall provide the Union with notice of upcoming advertisements for contracts thirty (30) days in advance of such solicitation; and be it

FURTHER RESOLVED: The City Administrator is hereby authorized to enter into pedestrian right-of-way construction contracts on behalf of the City of Oakland and to execute any amendments or modification of the contract within the limitation of the project specification in a total amount not to exceed seven million, five hundred thousand dollars (\$7,500,000); and be it

FURTHER RESOLVED: That with each pedestrian right-of-way construction contract let under these provisions, the City Administrator, or designee, is hereby authorized to negotiate with the second lowest bidder and/or next lowest bidder for the same awarded amount, if the lowest bidder fails to return the complete signed contract documents and supporting documents within the days specified in the Special Provision, without return to Council; and be it

FURTHER RESOLVED: That the Plans and Specifications prepared for pedestrian right-of-way projects, including any subsequent changes during construction, will be reviewed and adopted by the Director of the Department of Transportation; and be it

FURTHER RESOLVED: That each pedestrian right-of-way construction contract and the value of each contract executed under the provisions of this resolution shall be reported to City Council on an annual basis; and be it

FURTHER RESOLVED: that the Council finds and determines that the proposed Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301(c) (Existing Facilities, Highways and Streets) which provides a basis for CEQA compliance; and be it

FURTHER RESOLVED: that this Resolution complies with CEQA and the City Administrator or designee shall file a Notice of Determination/Exemption with the Clerk of the County of Alameda on the projects undertaken under the provisions of this Resolution; and be it

FURTHER RESOLVED: That all contracts awarded under the provisions of this resolution shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

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