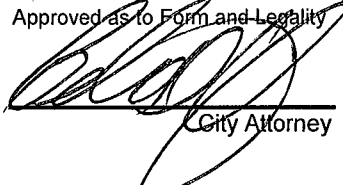


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Approved as to Form and Legality

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 87080 C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO 1) ACCEPT, APPROPRIATE AND ALLOCATE PROFESSIONAL FEES & OMISSION CLAIM OF FUNDS IN THE AMOUNT OF TWO HUNDRED FORTY-ONE THOUSAND DOLLARS (\$241,000.00) FOR THE BEGIN PLAZA RENOVATION PROJECT (NO. 1001028) AND 2) WAIVE FURTHER COMPETITIVE BID PROCESSES AND AMEND THE ON-CALL CONSTRUCTION CONTRACT WITH MCGUIRE & HESTER BY AN AMOUNT NOT-TO-EXCEED TWO HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$265,000.00) INCREASING THE CONTRACT FROM SEVEN HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$775,000.00) TO ONE MILLION FORTY THOUSAND DOLLARS (\$1,040,000.00)

WHEREAS, the City passed Resolution No. 84784 C.M.S. in January 2014 authorizing the City to apply for, accept, and appropriate a State of California, Department of Housing and Community Development (HCD) - Housing Related Parks Program (HRPP) grant in an amount up to \$2,250,000 for three projects, including the Bishop Floyd Begin Plaza (Begin Plaza) project located at Martin Luther King Jr. Way and San Pablo Avenue, and

WHEREAS, the City applied and was awarded \$2,063,400 from the grant, and

WHEREAS, the City entered into an agreement with the State of California HCD in December 2014 receiving grant funds; and

WHEREAS, Begin Plaza Renovation was allocated \$990,900 for the project; and

WHEREAS, McGuire and Hester, Inc. has an existing on-call construction awarded in July 2013 under Resolution No. 84487 C.M.S. in an amount not-to-exceed \$500,000 and amended in March 2016 by Council Resolution No. 84831 C.M.S. increasing the contract to \$775,000 for the construction of the Begin Plaza Improvement and other projects, and

WHEREAS, the City contracted with McGuire and Hester, Inc. in March 2016 for the construction of the Begin Plaza Renovation project; and

WHEREAS, the project was substantially completed when deficiencies in the design were discovered for the play area rendering the play area uncertifiable; and

WHEREAS, the City has negotiated an agreement with the consultant firm representative for the corrective work necessary to the play area and will need to implement the corrective work; and

WHEREAS, OMC Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interests of the City to do so; and

WHEREAS, the City finds that by utilizing the same construction firm, McGuire & Hester, Inc., for the corrective work will ensure continuity and integrity of the construction warranties; and

WHEREAS, the contractor, McGuire and Hester, Inc., is the contractor of record for the project and has in-depth knowledge of the project scope and site conditions; and

WHEREAS, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance; 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 finds and determines that for the conditions described in above whereas clauses, it is in the best interest of the City to waive further advertising and competitive bidding per OMC Section 2.04.050.I; and be it

FURTHER RESOLVED: That the City accept, appropriate, and allocate the funds paid for by the consultant's insurance in the amount of two hundred forty-one thousand dollars (\$241,000.00) for the Begin Plaza project and said funds to be allocated to the existing Project (No. 1001028) in a Fund and Award No. (TBD), Capital Org. (No. 92270); and be it

FURTHER RESOLVED: That the City Administrator, or Designee, is authorized to amend the on-call construction contract with McGuire & Hester by an amount not-to-exceed two hundred sixty-five thousand dollars (\$265,000.00) increasing the contract from seven hundred seventy-five thousand dollars (\$775,000.00) to one million forty thousand dollars (\$1,040,000) to complete the necessary corrective work in accordance with the project plans and specifications; and be it

FURTHER RESOLVED: That the City Administrator, or Designee, 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 comply with all City contracting and compliance program requirements that apply to this contract, including Local Business

Enterprise and Small Local Business Enterprise (LBE/SLBE) participation and be verified by the Contracts and Compliance Division; and be it

FURTHER RESOLVED: That the contractor shall amend and provide a faithful performance bond and a bond to guarantee payment of all claims for labor and materials furnished for the amount of 100% of the contract price due under the Unemployment Insurance Act 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 prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 16 2018

PASSED BY THE FOLLOWING VOTE:

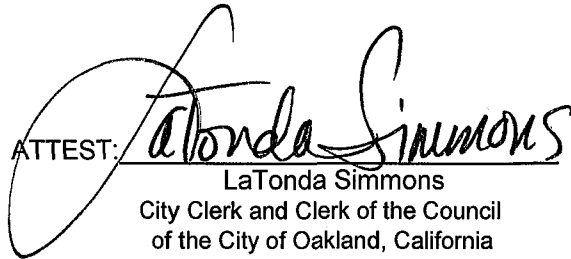
AYES - BROOKS, CAMPBELL WASHINGTON, ~~WAMMO~~, GUILLEN, KALB, KAPLAN, GIBSON MCELHANEY, and PRESIDENT REID ← 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Gallo - 1

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California