

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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Approved as to Form and Legality

Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. 81937 C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR THE CITY ADMINISTRATOR'S DESIGNEE, TO AWARD A CONSTRUCTION CONTRACT TO MCGUIRE & HESTER FOR THE CRYER SITE SEGMENT OF THE OAKLAND WATERFRONT BAY TRAIL (C243010) IN THE AMOUNT OF ONE MILLION SEVEN HUNDRED THIRTY-FIVE THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$1,735,680.00) AND TO AUTHORIZE THE CITY ADMINISTRATOR, OR THE CITY ADMINISTRATOR'S DESIGNEE, TO ALLOCATE MEASURE DD, SERIES A AND SERIES B FUNDS, AS THE CITY ADMINISTRATOR DEEMS NECESSARY AND APPROPRIATE FOR FUNDING AND THE TIMELY COMPLETION OF SPECIFIC MEASURE DD PROJECTS IN ACCORDANCE WITH MEASURE DD**

**WHEREAS**, the Cryer Site segment of the Oakland Waterfront Trail is a much needed project to provide the community with year-round recreational opportunities; and

**WHEREAS**, on January 29, 2009, ten bids were received by the Office of the City Clerk for the Cryer Segment of the Oakland Waterfront Bay Trail Project; and

**WHEREAS**, McGuire & Hester (Oakland) is the lowest responsive and responsible bidder; and

**WHEREAS**, due to the use of Federal grant funds, Department of Transportation (DOT) guidelines are used to administer this project, the City's Local Business Enterprise programs are not applicable; and

**WHEREAS**, the project has been classified as race neutral under the DOT Implementation Agreement and participation in the Federal Disadvantaged Business Enterprise program is not required; 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 that services under this contract will be temporary; 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 service; and

**WHEREAS**, approval of this resolution will authorize a construction contract in the amount of \$1,735,680.00 for the Cryer Site by McGuire and Hester with funds from the following sources:

- \$200,000.00 from the San Francisco Bay Trail Grant (Fund 2159, Project No. C243011, Capital Project Management Organization 92270); and
- \$750,000.00 from Bond Measure DD Fund (5320, Project No. C243010, Capital Project Management Organization 92270); and
- \$350,000.00 from Bond Measure DD Fund Series A (5320, Project No. C244410, Capital Project Management Organization 92270); and
- \$435,680.00 from Bond Measure DD Fund Series B (5320, Project No. C244410, Capital Project Management Organization 92270); and

**WHEREAS**, in order to expedite overall completion of the Measure DD projects, the City Council wishes to allocate Measure DD, Series B bond proceeds in the amount of \$435,680.00 for Environmental Remediation in anticipation of additional Series B Funds that will become available in the 2009/2010 fiscal year; and

**WHEREAS**, the City anticipates that Measure DD, Series B bond proceeds will be available in the 2009/2010 fiscal year and in time for proper payment of the construction contract, however, should said funds not be available in a timely manner, then the interest from the Measure DD, Series A bond proceeds shall be used, as a stop gap measure, until such time as the Measure DD, Series B bond proceeds are available for use, at which time, the interest from the Measure DD, Series A bond proceeds will be repaid; now, therefore, be it

**RESOLVED:** That the City Administrator, or designee, is hereby authorized to award a construction contract on behalf of the City of Oakland for the Cryer Site segment of the Oakland Waterfront Bay Trail to McGuire & Hester in the amount of one million seven hundred thirty-five thousand six hundred and eighty dollars (\$1,735,680.00) and to execute any amendments or modifications of said contract within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to reject all other bids; and be it

**FURTHER RESOLVED:** The amount of the bond for faithful performance, equal to the amount of the contract, and the amount for a bond to guarantee payment of all claims for labor and material furnished and for the amount due under the Unemployment Insurance Act, equal to the amount of the contract, with respect to such work are hereby approved; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is authorized, on behalf of the City of Oakland, to negotiate, apply for, accept, submit and execute all documents, including, but not limited to, applications, grants, contracts, amendments, payment requests, and related actions for the completion of this project; and be it

**FURTHER RESOLVED:** That should additional funds be received for this project, the City Administrator, or designee, on behalf of the City of Oakland, is hereby authorized to apply for, accept and appropriate the funds for the purposes described above for completion of this project without return to Council; and be it

**FURTHER RESOLVED:** That the City of Oakland certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project; and be it

**FURTHER RESOLVED:** That the City Council hereby approves the plans and specifications for the Cryer Site segment of the Oakland Waterfront Trail; and be it

**FURTHER RESOLVED:** That the City Administrator, or the City Administrator's designee, is authorized to allocate Measure DD, Series A and Series B funds, as the City Administrator deems necessary and appropriate for funding and the timely completion of specific Measure DD projects in accordance with Measure DD; and be it

**FURTHER RESOLVED:** That should said Measure DD, Series B funds not be available in a timely manner, then the interest from the Measure DD, Series A bond proceeds shall be used, as a stop gap measure, until such time as the Measure DD, Series B bond proceeds are available for use, at which time, the interest from the Measure DD, Series A bond proceeds will be repaid; and

**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.

IN COUNCIL, OAKLAND, CALIFORNIA, APR 21 2009

**PASSED BY THE FOLLOWING VOTE:**


AYES - ~~BROOKS~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - Brooks - 1

ABSTENTION - 0

ATTEST:

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