

[Signature]
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

06 JAN 19 PM 4: 23 OAKLAND CITY COUNCIL

REVISED

RESOLUTION No: 79653 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION TO 1) REJECT ALL BIDS, AUTHORIZE THE CITY ADMINISTRATOR TO NEGOTIATE, AWARD AND EXECUTE A CONSTRUCTION CONTRACT, WITHOUT RETURN TO THE COUNCIL, FOR THE CONSTRUCTION OF STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710) IN AN AMOUNT NOT-TO-EXCEED EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000.00); 2) WAIVE FURTHER COMPETITIVE BIDDING, AND 3) APPROPRIATE UP TO TWO MILLION DOLLARS (\$2,000,000.00) FROM UNAPPROPRIATED MEASURE DD FUNDS TO THE STUDIO ONE ART CENTER REHABILITATION PROJECT (NO. C244710)

WHEREAS, Studio One Art Center is an existing facility identified for renovation and rehabilitation under Capital Improvement Plan for FY2003-2005 budget and in accordance with Measure DD passed by the Voters on November 5, 2003; and

WHEREAS, on October 10, 2005, five bids were received by the Office of the City Clerk of the City of Oakland for the Studio One Art Center Rehabilitation Project (No. C244710) and all bids exceeded project estimate; and

WHEREAS, it came to the City's attention that although the City required bidders to disclose whether they had been debarred within the past five years in the pre-qualification phase, the lowest bidder had not disclosed a debarment within the past five years in a nearby jurisdiction which disqualified the firm from the process; and

WHEREAS, reference check for the next low bidder disclosed a recent default in a nearby jurisdiction the fact of which rendered the firm ineligible for the pre-qualified pool or to participate in the bidding process for the Studio One project; and

WHEREAS, the next two bidders in line did not meet City's Compliance Programs in Local Business Enterprise/Small Local Business Enterprise; and

WHEREAS, BBI Construction is the lowest responsive, responsible bidder for the project and has met the Local Business Enterprise/Small Local Business Enterprise requirements but is over budget; and

WHEREAS, project funding exists in Measure DD General Obligation Bond Fund (5320) – Oakland Trust for Clean Water and Safe Parks, Project No. C244710, Capital Projects – Director's Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); in Proposition 12, 2000, State of California Parks and Recreation Fund (2134), Park

Bond Act – Murray Hayden Urban Youth Services Program, Project No. C196810, Capital Projects – Director's Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); in Municipal Capital Improvement Program Fund (5500), Project No. C71910, Director's Unit (Organization #92110), Capital Acquisitions, Building Additions and Improvement Account (#57212); and

WHEREAS, additional funding is required to award the construction contract; 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 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 Council rejects all bids submitted on October 10, 2005 for the Studio One Art Center Rehabilitation Project as over the engineer's estimated cost and budget; and, be it

FURTHER RESOLVED: That the City Council finds and determines that it is in the best interests of the City to waive further competitive bidding pursuant to Oakland Municipal Code Title 2, Chapter 2.04, Article 2.04.050.1.2 and 5 and hereby does so because the first bid process did not render any responsible and responsive bids within budget and further competitive bidding would delay the project which may cause the City to miss the deadlines for expenditure of Measure DD funding; and be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to negotiate and award a construction contract based on plans and specifications for the Studio One Art Center Rehabilitation Project in an amount not-to-exceed eight million two hundred thousand (\$8,200,000.00), without return to Council; 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 pursuant to Oakland Municipal Code Section 2.04.060.B, C, and D, the Studio One Art Center Rehabilitation Project (No. C244710) bid from West Bay Builders, Inc. is hereby rejected as non-responsible due to their failure to disclose information concerning debarment within the past five year that was required in the pre-qualification application for that project; and, be it

FURTHER RESOLVED: That the Studio One Art Center Rehabilitation Project (No. C244710) bid from Arntz Builders, Inc. is hereby rejected because Arntz did not have the project experience necessary to become a pre-qualified bidder for the project; and, be it

FURTHER RESOLVED: That, pursuant to Oakland Municipal Code Chapter 2.04, Section 2.04.050.1.5, the City Council finds and determines that it would be in the City's best interests to waive further competitive bidding and hereby does so in order to meet the funding expenditure closing date; and, be it

FURTHER RESOLVED: That up to two million dollars (\$2,000,000.00) from unappropriated Measure DD, Series A, funds are appropriated to the Studio One Art Center Rehabilitation Project (No. C244710) and the funds are placed in Measure DD Fund 5320, Capital Projects -- Director's Unit (Organization #92110), Capital Acquisitions, Buildings Additions and Improvement Account (#57212); and, be it

FURTHER RESOLVED: That the contractor shall provide 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 City Administrator, or her designated representative, is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement, provided that such amendments or extensions shall be approved as to form and legality by the City Attorney's Office and filed with the Office of the City Clerk; and, be it

FURTHER RESOLVED: That project completion is estimated to be approximately fifteen months after issuance of Notice-to-Proceed; and, be it

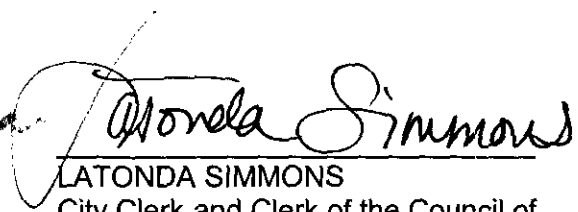
FURTHER RESOLVED: That the contract shall be reviewed and approved by the Office of the City Attorney and filed with the Office of the City Clerk; and, be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 20 2005 2005

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND PRESIDENT OF THE COUNCIL DE LA FUENTE - 8
NOES - 0
ABSENT - 0
ABSTENTION - 0

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