



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2016 JUN -2 PM 2:27

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Brooke A. Levin  
Director, Public Works

**SUBJECT:** Contract Award for Highway Safety  
Improvement Program Cycle 5  
(HSIP5): 98<sup>th</sup> Avenue

**DATE:** May 9, 2016

City Administrator Approval

Date:

6/1/16

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Awarding A Construction Contract To Bay Construction, The Lowest, Responsible, Responsive Bidder, For Highway Safety Improvement Program Cycle 5 (HSIP5): 98<sup>th</sup> Avenue, Project No. C468220 In Accordance With Project Plans, Specifications, State Requirements, And With Contractor's Bid In The Amount Of Five Hundred Ninety Thousand Two Hundred Fifteen Dollars (\$590,215).**

## EXECUTIVE SUMMARY

Approval of the resolution will award a contract of \$590,215 to Bay Construction, the lowest responsible, responsive bidder, for the Highway Safety Improvement Program Cycle 5 (HSIP5), 98<sup>th</sup> Avenue Project to improve safety and access for pedestrians, bicyclists and motorists on 98<sup>th</sup> Avenue in Oakland.

## BACKGROUND / LEGISLATIVE HISTORY

In 2012, the City was successful in receiving grants under the HSIP5 for three projects, on corridors that include 98th Avenue. The three corridors are:

- 98th Avenue between MacArthur Boulevard and Edes Avenue
- West MacArthur Blvd between Market Street and Telegraph Avenue
- Market Street between 45th Street and Arlington Avenue

The competitive selection process was based on cost-effective measures that can reduce the number and severity of collisions for pedestrians, bicyclists and vehicles, especially those that result in severe injuries. While this resolution is for the 98th Avenue project, construction contracts on other two corridors were awarded by the City Council earlier this year.

The project will install bulb-outs and crosswalks on 98<sup>th</sup> Avenue at D Street, speed radar feedback signs on 98<sup>th</sup> Avenue from Walter Avenue to Bancroft Avenue, and advanced

Item: \_\_\_\_\_  
Public Works Committee  
June 14, 2016

vehicular detection equipment to reduce pedestrian and vehicle collisions associated with red-light running and rear end collisions. The project is located in Council District 7, as shown in **Attachment A1**.

### **ANALYSIS AND POLICY ALTERNATIVES**

On December 17, 2015, the City received one bid from Ray's Electric. The Contract Compliance Division determined that Ray's Electric bid of \$549,380 did not meet the Federal Disadvantaged Business Enterprise (DBE) goal of 10%, and that its Good Faith Effort was insufficient. Hence, Ray's Electric bid was deemed non-responsive. Federally funded project guidelines do not allow bid negotiation with contractors. As a result, the contractor's bid was rejected, and the project was re-bid. The re-bid package also has a Federal DBE goal of 10 percent. On March 3, 2016, the City received two bids in the amounts of \$590,215 and \$521,711 from Bay Construction Company and Ray's Electric, respectively as shown in **Attachment A2**.

Contract Compliance Division determined that the apparent lowest bidder, Ray's Electric, again did not meet the Federal 10% DBE goal, and that its Good Faith Effort was insufficient. Ray's Electric was deemed non-responsive as shown in **Attachment A3**.

The Contract Compliance Division determined that Bay Construction bid is Equal Benefits Ordinance (EBO) compliant, meets the Federal 10% DBE goal, and is therefore the lowest, responsible, responsive bidder as shown in **Attachment A3**. Bay Construction's bid of \$590,215 is twenty percent (20%) above the Engineer's Estimate of \$493,167.28, but the project has sufficient funds for construction. Further, staff has determined that Bay Construction bid is reasonable and reflects current market conditions. Hence, Bay Construction is recommended to be awarded a contract.

### **FISCAL IMPACT**

Approval of these resolutions will authorize the City Administrator to execute a construction contract with Bay Construction as follows:

#### AMOUNT OF RECOMMENDATION/COST OF PROJECT:

- Construction Contract: \$590,215

#### SOURCES OF FUNDING:

The Resolution No. 84370 C.M.S. authorizing the acceptance and appropriation of HSIP5 federal funds for three projects included \$656,900 for the 98<sup>th</sup> Avenue Projects as shown in **Attachment A4**. A local match is required as a condition of the grant.

#### Grant for Construction Contract

HSIP5 Federal grant \$531,193. State of California, Department of Transportation, Fund 2116; Transportation Services Division Organization 92246, Project C468220, Traffic and Pedestrian Safety Program NB33; and

Local Match for Construction Contract

Measure BB for the Required Local Match (10 percent) of \$59,022, Fund 2211 and 2216, Transportation Services Division Organization 92246, Project C468221 and C491140, Traffic and Pedestrian Safety Program NB33.

The project breakdown of federal grant and local match are shown below:

	Fund	Project C468220	Project C468221	Total
Construction	Grant	\$ 531,193	\$ -	\$ 531,193
Contract	Local Match	\$ -	\$ 59,022	\$ 59,022
	Total	\$ 531,193	\$ 59,022	\$ 590,215

**PUBLIC OUTREACH / INTEREST**

The City presented the two projects to the Bicyclist and Pedestrian Advisory Commission (BPAC) and solicited their input. BPAC gave positive feedback to and supported both projects. City staff also reached out to AC Transit. AC Transit supported both projects.

**COORDINATION**

Staff coordinated with other City's Department and Divisions during the design phase. The Office of the City Attorney and the Controller's Bureau reviewed this report and resolutions.

**PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

Contractor Performance Evaluations on Bay Construction from previously completed projects are satisfactory, and are noted on **Attachment A5**.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** Improvements to pedestrian, bicycle and street facilities contributes to local economic activities.

**Environmental:** Walking is an energy efficient form of transportation and creates no emissions. Accessible pedestrian infrastructure promotes physical activity and good health. Bulb-out and shorter crosswalks improves pedestrian safety and access. Radar speed feedback signs and video detection improves traffic safety, traffic flow, reduce stops and emissions, and improve air quality.

**Social Equity:** Improving pedestrian facilities is a key in promoting walking as a viable mode of transportation.

**CEQA**

In 2013, the project was determined to have no significant impacts on the environment, and was deemed categorically exempted under the National Environmental Policy Act (NEPA) requirements.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Awarding A Construction Contract To Bay Construction, The Lowest, Responsible, Responsive Bidder, For Highway Safety Improvement Program Cycle 5 (HSIP5): 98<sup>th</sup> Avenue, Project No. C468220 In Accordance With Project Plans, Specifications, State Requirements, And With Contractor's Bid In The Amount Of Five Hundred Ninety Thousand Two Hundred Fifteen Dollars (\$590,215).

For questions regarding this report, please contact Wladimir Wlassowsky, Transportation Services Division Manager, at (510) 238-6383.

Respectfully submitted,

  
\_\_\_\_\_  
BROOKE A. LEVIN  
Director, Oakland Public Works

Reviewed by:  
Michael J. Neary, P.E., Assistant Director  
OPW, Bureau of Engineering and Construction

Prepared by:  
Wladimir Wlassowsky, P.E., Manager,  
Transportation Services Division

Ade Oluwasogo, P.E.  
Supervising Transportation Engineer  
Transportation Services Division

*Attachments (5):*

- A1: *Location Map*
- A2: *List of Bidders*
- A3: *Contract Compliance Report*
- A4: *Resolution to Accept HSIP Cycle 5 Grant*
- A5: *Contractor Performance Evaluation*

# **ATTACHMENTS A1 to A5**

**For**

**HSIP CYCLE 5  
98<sup>TH</sup> AVENUE**

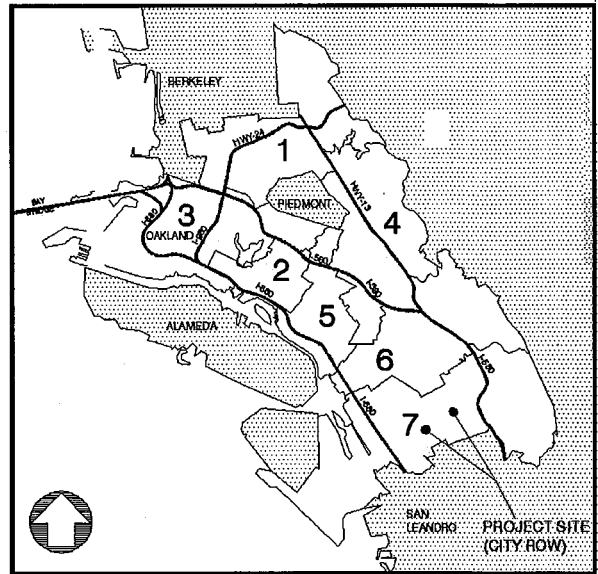
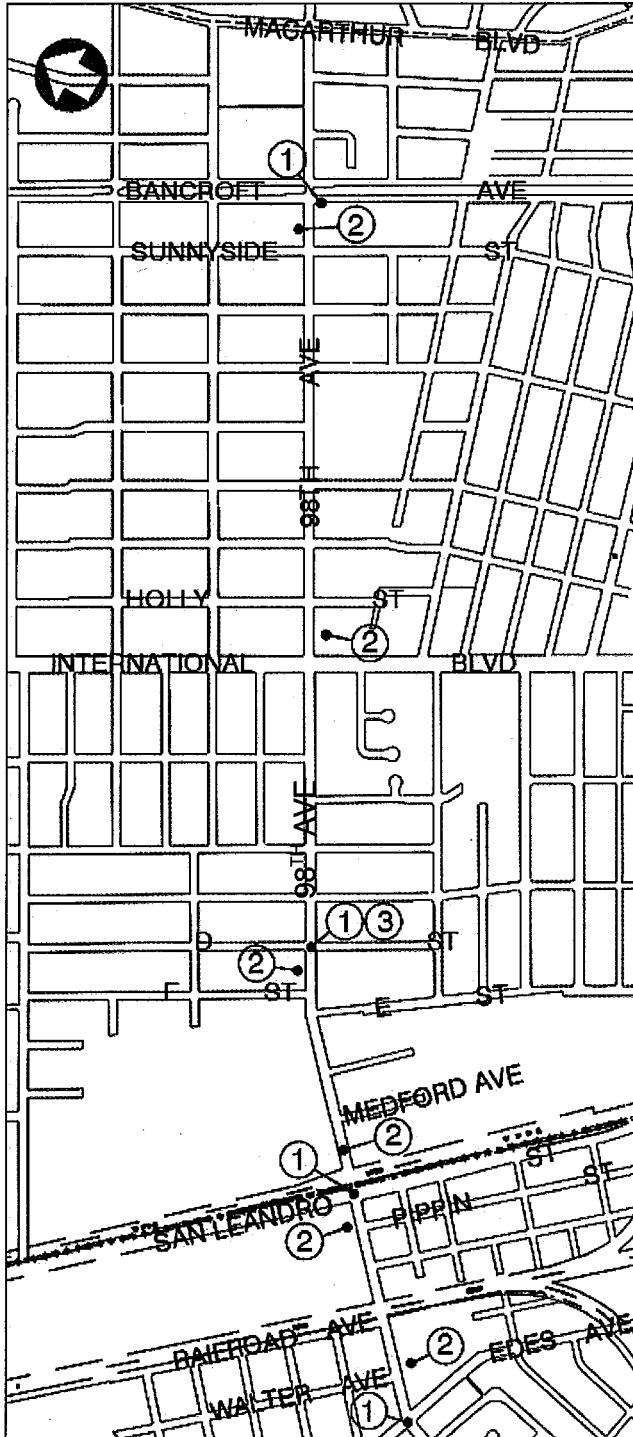
**FEDERAL PROJECT NO. HSIPL-5012 (118)  
CITY PROJECT NO. C468220**

- Attachment A1. Location Map**
- Attachment A2. List of Bidders**
- Attachment A3. Contract Compliance Report**
- Attachment A4. Resolution to Accept HSIP Cycle 5 Grant**
- Attachment A5. Contractor Performance Evaluation**

# ATTACHMENT A1

## LOCATION MAP

HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 5  
 98<sup>TH</sup> AVENUE  
 FEDERAL PROJECT NO. HSIPL-5012 (118)  
 CITY PROJECT NO. C468220



### SITES

- 98<sup>TH</sup> AVENUE / D STREET
- 98<sup>TH</sup> AVENUE FROM  
MACARTHUR BOULEVARD  
TO EDES AVENUE

### NOTES

- ① TRAFFIC SIGNAL MODIFICATION
- ② SPEED RADAR FEEDBACK SIGN
- ③ CIVIL WORK

### LOCATION MAPS

NOT TO SCALE

LIMITS OF WORK

# ATTACHMENT A2

## LIST OF BIDDERS

HSIP CYCLE 5  
98TH AVENUE REBID  
FEDERAL PROJECT NO. HSIPL-5012 (118)  
CITY PROJECT NO. C468220

<b>Contractors</b>	<b>Re-Bid Amount</b>
Bay Construction Company	\$590,215.00
Ray's Electric	\$521,711.00

Note: Re-Bids were received by City Clerk on March 3, 2016.



Attachment A3

**INTER OFFICE MEMORANDUM**

**TO:** Phillip Ho

**FROM:** Deborah Barnes, *Deborah Barnes*  
Director, Contracts and Compliance

**SUBJECT:** Compliance Analysis

**DATE:** March 25, 2016

Highway Safety Improvement Program (HSIP) Cycle 5 – 98<sup>th</sup> Avenue (MacArthur Blvd)

Project No. C468220 (Rebid)

The City Administrator’s Office, Contracts & Compliance, reviewed two (2) bids in response to the above referenced project. Below is the outcome of the compliance evaluation for the Disadvantaged Business Enterprise (DBE) program and a preliminary review for compliance with the Equal Benefits Ordinance (EBO). There is a DBE goal of 10% for this project.

Below are the results of our findings:

Responsive to DBE and/or EBO Policies		Proposed Participation				Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	DBE Total	LBE	SLBE	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Bay Construction	\$590,215	11.91%	0%	44.69%	NA	NA	NA	NA	Y

**Comments:** As noted above, Bay Construction met the 10% DBE goal for this project. Bay Construction is EBO compliant.

Non-Responsive to DBE and/or EBO Policies		Proposed Participation				Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	DBE Total	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Ray’s Electric	\$521,711	.88%	.42%	51.41%	NA	NA	NA	NA	Y

**Comments:** As noted above, Ray’s Electric failed to meet the 10% DBE goal for this project. The firm submitted Good Faith Effort, however, it was deemed insufficient. Therefore, the firm is deemed non-compliant. Ray’s Electric is EBO compliant.





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Company Name	Original Bid Amount	DBE Total	LBE	SLBE	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Bay Construction	\$590,215	11.91%	0%	44.69%	NA	NA	NA	NA	Y

**Comments:** As noted above, Bay Construction met the 10% DBE goal for this project. Bay Construction is EBO compliant.

Non-Responsive to DBE and/or EBO Policies		Proposed Participation				Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	DBE Total	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Ray's Electric	\$521,711	.88%	.42%	51.41%	NA	NA	NA	NA	Y

**Comments:** As noted above, Ray's Electric failed to meet the 10% DBE goal for this project. The firm submitted Good Faith Effort, however, it was deemed insufficient. Therefore, the firm is deemed non-compliant. Ray's Electric is EBO compliant.

**For Informational Purposes**

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

**Contractor Name: Bay Construction Company, Inc.**  
**Project Name: Woodmister theater ADA Improvement Upper amphitheater**  
**Project No. C274390**

**50% Local Employment Program (LEP)**

Was the 50% LEP Goal achieved?	Yes	If no, shortfall hours?	NA
Were all shortfalls satisfied?	Yes	If no, penalty amount	NA

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	Yes	If no, shortfall hours?	NA
Were shortfalls satisfied?	Yes	If no, penalty amount?	NA

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E)# resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

Total Project Hours	50% Local Employment Program (LEP)							15% Apprenticeship Program				
	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Oakland Apprenticeship Hours Achieved	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
		Goal	Hours	Goal	Hours					Goal	Hours	
A	B	C	D	E	F	G	H	I	J			
1626	0	50%	813	100%	813	0	0	100%	243	15%	243	0

**Comments:** Bay Construction exceeded the Local Employment Program's 50% resident hiring goal with 100% resident employment and met the 15% Oakland Apprenticeship Program goals with 121.5 on-site hours and 121.5 off-site hours.

Should you have any questions, you may contact Vivian Inman, Contract Compliance Officer at (510) 238-6261.



**OFFICE OF THE CITY ADMINISTRATOR**

**Contracts & Compliance Unit**

**PROJECT COMPLIANCE EVALUATION FOR :**

Construction Services Disadvantaged Business Enterprise (DBE)

**PROJECT NO.:** C468220

**PROJECT NAME:** Highway Safety Improvement Program (HSIP) Cycle 5 - 98th Avenue (MacArthur Blvd)  
(REBID)

**CONTRACTOR:** Ray's Electric

**Engineer's Estimate:**

	<b><u>Contractors' Bid Amount</u></b>	<b><u>Over/Under Engineer's Estimate</u></b>
\$493,167.28	\$521,711.00	-\$28,543.72

**Discounted Bid Amount:**

**Amt. of Bid Discount**

**Discount Points:**

N/A

N/A

N/A

- 1. Did the DBE Program apply? **YES**
- 2. Did the contractor meet the DBE goal of 10% **NO**
  - b) % of DBE participation **0.88%**
  - c) % of LBE participation **0.42%**
  - d) % of SLBE participation **51.41%**
- 3. Was Good Faith Effort (GFE) Documentation submitted? **YES**
- 4. Did the contractor receive bid discounts? **N/A**  
(If yes, list the percentage received) **N/A**

5. Additional Comments.

**Firm failed to meet the 10% DBE goal. The firm submitted Good Faith Effort however, it was deemed insufficient. Therefore, the firm is deemed non-compliant.**

6. Date evaluation completed and returned to Initiating Dept. **3/25/2016**

**Reviewing Officer:**

*Vivian Janna*

**Date:** **3/25/2016**

**Approved By:** *Shelley Dorending*

**Date:** **3/25/2016**

# DBE Participation Bidder 1

Project Name: Highway Safety Improvement Program (HSIP) Cycle 5 - 98th Avenue (MacArthur Blvd) (REBID)												
Project No.: C468220		Engineer's Est. \$493,167.28				Over/Under Engineers Estimate \$28,543.72						
Discipline	Prime & Subs	Location	Cert. Status	LBE Dollars	SLBE Dollars	Total LBE/SLBE Dollars	DBE Dollars	Total Dollars	Certified DBE/WBE			
									Ethn.	DBE	WBE	
PRIME	Ray's Electric	Oakland	UB		263,597.00	263,597.00		263,597.00	C			
Trucking Services	S&S Trucking	Oakland	CB		4,600.00	4,600.00	4,600.00	4,600.00	H	4,600.00		
Supply of Electrical Material	GDS Industries	Vista	UB					208,618.00	C		208,618.00	
Supply of Concrete	Central Concrete	San Jose	UB					9,800.00	C			
Asphalt Concret Supply	Gallagher & Burk	Oakland	UB	2,200.00		2,200.00		2,200.00	C			
Striping	Chirsp Co.	Fremont	UB					7,174.00	C			
Supply of Solar Power Signs	Statewide Traffic Safety & Signs	Fairfield	UB					25,722.00	C			
<b>Project Totals</b>												
				\$2,200.00	\$268,197.00	\$270,397.00	\$4,600.00	\$521,711.00	100.00%	0.88%	\$4,600.00	\$208,618.00
				0.42%	51.41%	51.83%	0.88%	100.00%		0.88%	39.99%	
<b>DBE Ethnicity</b>												
AA= African American AI= Asian Subcontinent AP= Asian Pacific Islander NA= Native American H= Hispanic/Latino W= Women UB= Uncertified Business CB= Certified Business DBE = Disadvantaged Business Enterprise WBE = Women Business Enterprise												



**OFFICE OF THE CITY ADMINISTRATOR**

**Contracts & Compliance Unit**

**PROJECT COMPLIANCE EVALUATION FOR :**

Construction Services Disadvantaged Business Enterprise (DBE)

**PROJECT NO.:** C468220

**PROJECT NAME:** Highway Safety Improvement Program (HSIP) Cycle 5 - 98th Avenue (MacArthur Blvd)  
(REBID)

**CONTRACTOR:** Bay Construction

**Engineer's Estimate:**

\$493,167.28

**Contractors' Bid Amount**

\$590,215.00

**Over/Under Engineer's Estimate**

-\$97,047.72

**Discounted Bid Amount:**

N/A

**Amt. of Bid Discount**

N/A

**Discount Points:**

N/A

- 1. Did the DBE Program apply? **YES**
- 2. Did the contractor meet the DBE goal of **10%** **YES**
  - b) % of DBE participation **11.91%**
  - c) % of LBE participation **0.00%**
  - d) % of SLBE participation **44.69%**
- 3. Was Good Faith Effort (GFE) Documentation submitted? **NO**
- 4. Did the contractor receive bid discounts? **N/A**  
(If yes, list the percentage received) **N/A**
- 5. Additional Comments.

6. Date evaluation completed and returned to Initiating Dept. **3/25/2016**

**Reviewing Officer:**

Milica Jamar

**Date:** 3/25/2016

**Approved By:** Shelley Darenburg

**Date:** 3/25/2016

# DBE Participation Bidder 2

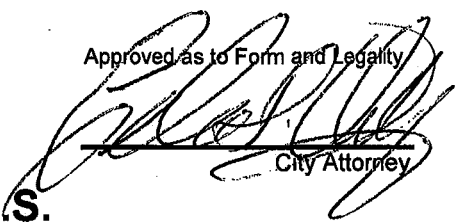
Project Name: Highway Safety Improvement Program (HSIP) Cycle 5 - 98th Avenue (MacArthur Blvd) (REBID)		Over/Under Engineers Estimate		-\$97,047.72							
Project No.: C468220		Engineer's Est.		\$493,167.28							
Discipline	Prime & Subs	Location	Cert. Status	LBE Dollars	SLBE Dollars	Total LBE/SLBE Dollars	DBE Dollars	Total Dollars	Certified DBE/WBE		
									Ethn.	DBE	WBE
PRIME	Bay Construction	Oakland	UB		263,766.50	263,766.50		263,766.50	A		
Striping	Striping Graphics	Cotati	UB			6,173.50		6,173.50	NL		
SWPPP	Appian UDBE SWPPP	El Sobrante	CB			675.00	675.00	675.00	AA		675.00
Supplier	Logistical Enterprises	Clovis	CB			69,600.00	69,600.00	116,000.00	H		116,000.00
Supplier	Western Pacific Signal	San Leandro	UB					126,000.00	NL		
Electrical	Steiney & Company	Vallejo	UB			77,600.00		77,600.00	C		
<b>Project Totals</b>											
				\$0.00	\$263,766.50	\$263,766.50	\$70,275.00	\$590,215.00		\$0.00	\$116,675.00
				0.00%	44.69%	44.69%	11.91%	100.00%		0.00%	19.77%
<p><b>Legend</b></p> <p>UB = Uncertified Business            CB = Certified Business            DBE = Disadvantaged Business Enterprise            WBE = Women Business Enterprise</p> <p><b>DBE Ethnicity</b>            AA=African American            AI=Asian Subcontinent            AP=Asian Pacific Islander;            NA = Native American;            FH=Hispanic/Latino;            W=Women            UDBE Ethnicity            AA=African American;            AP=Asian Pacific Islander;            NA=Native American;            W=Women</p>											

Attachment A4

Approved as to Form and Legality

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

OAKLAND CITY COUNCIL

  
City Attorney

13 MAY -2 PM 1:57  
**RESOLUTION No. 84370 C.M.S.**  
Introduced by Councilmember \_\_\_\_\_

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE, THE DIRECTOR OF PUBLIC WORKS, TO ACCEPT AND APPROPRIATE TWO MILLION DOLLARS (\$2,000,000.00) IN HIGHWAY SAFETY IMPROVEMENT PROGRAM CYCLE 5 (HSIP-5) GRANT FUNDS, FOR ROADWAY SAFETY IMPROVEMENTS ON WEST MACARTHUR BOULEVARD, 98<sup>TH</sup> AVENUE, AND AT MARKET STREET/ADELINE STREET**

**WHEREAS**, the State of California Department of Transportation (Caltrans) disburses federal Highway Safety Improvement Program Cycle 5 (HSIP-5) funds on a competitive basis to eligible jurisdictions for projects that improve roadway safety for vehicles, pedestrians and bicycles; and

**WHEREAS**, the City of Oakland, Transportation Services Division submitted proposals for grant funding for roadway safety improvements along three of its highest-collision roadway corridors:

- West MacArthur Boulevard**-Market Street to Telegraph Avenue
- 98<sup>th</sup> Avenue**-MacArthur Boulevard to Edes Avenue
- Market Street**-45<sup>th</sup> St. to Arlington Ave., including Adeline Street intersection

**WHEREAS**, the Transportation Services Division was notified recently that its proposals were granted the maximum amount of HSIP-5 grant funds eligible to a single jurisdiction, **\$2,000,000**; and

**WHEREAS**, the City of Oakland City of Oakland desires to accept and appropriate the **\$2,000,000.00** in Federal Cycle 5 HSIP funds to Federal Highway Funds (2116), Public Works Agency, Transportation Services Division Organization (30264), to address eligible traffic safety issues; and

**WHEREAS**, **\$699,400.00** of said funding will be used to modify and upgrade traffic signals; construct left-turn lane, install protected left-turn phasing, and modify traffic lanes to accommodate new bike lanes at West MacArthur Blvd between Market Street and Telegraph Avenue; and

**WHEREAS**, **\$656,900.00** of said funding will be used to upgrade traffic signals; install advance detection system; widen sidewalks and install speed feed-back signs at 98<sup>th</sup> Avenue between MacArthur Boulevard and Edes Avenue; and

**WHEREAS**, **\$643,700.00** of said funding will be used to modify intersection geometry to improve safety and operation for pedestrians, bicycle and vehicles, install new bike lanes; construct sidewalks with curb and gutter at Market Street between 45<sup>th</sup> Street and Arlington Avenue; and

**WHEREAS**, a local match of **\$948,500.00** is required as a condition of the grant and said local match will be provided by Measure B funds allocated specifically as local match for federally funded projects, in the current 2012-13 budget and in the proposed 2013-15 policy budget; and

**WHEREAS**, the Public Works Agency requests a waiver of the 1.5% public art fee for this project because HSIP guidelines restrict funding uses to traffic safety improvements and prohibit the use of grant funds for public art; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes acceptance and appropriation of the Federal Cycle 5 Highway Safety Improvement Program funds in the total amount of **\$2,000,000.00** for the aforementioned eligible traffic safety improvements; and be it

**FURTHER RESOLVED:** That these grant funds will be deposited and appropriated to Federal Highway Funds (2116), Transportation Services Division Organization (30264) in a project number to be established; and be it

**FURTHER RESOLVED:** That for this project the 1.5% public art fee is waived because HSIP guidelines prohibit the use of grant funds for public art; and be it

**FURTHER RESOLVED:** That the City Administrator, or her designee, is authorized, on behalf of the City of Oakland, to execute and submit all documents, payment requests, and related actions, as well as to appropriate any additional grant funds received for the completion of this project.

**MAY 21 2013**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

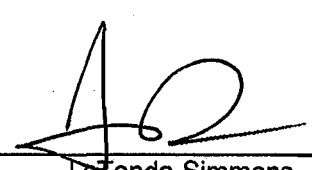
AYES – BROOKS, GALLO, GIBSON-MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: \_\_\_\_\_

  
LaFonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California



# Attachment A5

## Schedule L-2 City of Oakland Public Works Agency CONTRACTOR PERFORMANCE EVALUATION

Project Number/Title: C274251 - Burkhalter Park

Work Order Number (if applicable): 7

Contractor: Bay Construction

Date of Notice to Proceed: May 27, 2014

Date of Notice of Completion: February 18, 2015

Date of Notice of Final Completion: February 18, 2015

Contract Amount: \$84,000.00

Evaluator Name and Title: Henry Choi, Resident Engineer

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

### ASSESSMENT GUIDELINES:

<b>Outstanding</b> (3 points)	Performance among the best level of achievement the City has experienced.
<b>Satisfactory</b> (2 points)	Performance met contractual requirements.
<b>Marginal</b> (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
<b>Unsatisfactory</b> (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

**Schedule L-2  
City of Oakland  
Public Works Agency  
CONTRACTOR PERFORMANCE EVALUATION**

Project Number/Title: C274251 - Burkhalter Park

Work Order Number (if applicable): 7

Contractor: Bay Construction

Date of Notice to Proceed: May 27, 2014

Date of Notice of Completion: February 18, 2015

Date of Notice of Final Completion: February 18, 2015

Contract Amount: \$84,000.00

Evaluator Name and Title: Henry Choi, Resident Engineer

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

**ASSESSMENT GUIDELINES:**

<b>Outstanding</b> (3 points)	Performance among the best level of achievement the City has experienced.
<b>Satisfactory</b> (2 points)	Performance met contractual requirements.
<b>Marginal</b> (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
<b>Unsatisfactory</b> (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

**WORK PERFORMANCE**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
1	Did the Contractor perform all of the work with acceptable Quality and Workmanship?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1a	If problems arose, did the Contractor provide solutions/coordinate with the designers and work proactively with the City to minimize impacts? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Was the work performed by the Contractor accurate and complete? If "Marginal or Unsatisfactory", explain on the attachment and provide documentation. Complete (2a) and (2b) below.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2a	Were corrections requested? If "Yes", specify the date(s) and reason(s) for the correction(s). Provide documentation.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
2b	If corrections were requested, did the Contractor make the corrections requested? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Was the Contractor responsive to City staff's comments and concerns regarding the work performed or the work product delivered? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Were there other significant issues related to "Work Performance"? If Yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	<b>Overall, how did the Contractor rate on work performance?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**TIMELINESS**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)? If "Marginal or Unsatisfactory", explain on the attachment why the work was not completed according to schedule. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Was the Contractor required to provide a service in accordance with an established schedule (such as for security, maintenance, custodial, etc.)? If "No", or "N/A", go to Question #10. If "Yes", complete (9a) below.			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
9a	Were the services provided within the days and times scheduled? If "Marginal or Unsatisfactory", explain on the attachment and specify the dates the Contractor failed to comply with this requirement (such as tardiness, failure to report, etc.). Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Did the Contractor provide timely baseline schedules and revisions to its construction schedule when changes occurred? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Did the Contractor furnish submittals in a timely manner to allow review by the City so as to not delay the work? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Were there other significant issues related to timeliness? If yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
13	<b>Overall, how did the Contractor rate on timeliness?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding timeliness and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**FINANCIAL**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City?  Number of Claims: _____ Claim amounts: \$ _____ Settlement amount: \$ _____				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
18	<b>Overall, how did the Contractor rate on financial issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**COMMUNICATION**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
19	Was the Contractor responsive to the City's questions, requests for proposal, etc.? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Did the Contractor communicate with City staff clearly and in a timely manner regarding:					
20a	Notification of any significant issues that arose? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20b	Staffing issues (changes, replacements, additions, etc.)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20c	Periodic progress reports as required by the contract (both verbal and written)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20d	Were there any billing disputes? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
22	<b>Overall, how did the Contractor rate on communication issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**SAFETY**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
23	Did the Contractor's staff consistently wear personal protective equipment as appropriate? If "No", explain on the attachment.				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
24	Did the Contractor follow City and OSHA safety standards? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
26	Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
27	Was the Contractor officially warned or cited for breach of U.S. Transportation Security Administration's standards or regulations? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
28	<b>Overall, how did the Contractor rate on safety issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

## OVERALL RATING

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

- |   |          |          |           |
|---|----------|----------|-----------|
| 1. Enter Overall score from Question 7  | <u>2</u> | X 0.25 = | <u>.5</u> |
| 2. Enter Overall score from Question 13 | <u>2</u> | X 0.25 = | <u>.5</u> |
| 3. Enter Overall score from Question 18 | <u>2</u> | X 0.20 = | <u>.4</u> |
| 4. Enter Overall score from Question 22 | <u>2</u> | X 0.15 = | <u>.3</u> |
| 5. Enter Overall score from Question 28 | <u>2</u> | X 0.15 = | <u>.3</u> |

TOTAL SCORE (Sum of 1 through 5): 2

OVERALL RATING: 2

- Outstanding: Greater than 2.5  
Satisfactory: Greater than 1.5 & less than or equal to 2.5  
Marginal: Between 1.0 & 1.5  
Unsatisfactory: Less than 1.0

### PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.

Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-





responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.


Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

**COMMUNICATING THE EVALUATION:** *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

  
Contractor / Date

 02/18/15  
Resident Engineer / Date

 2/20/15  
Supervising Civil Engineer / Date

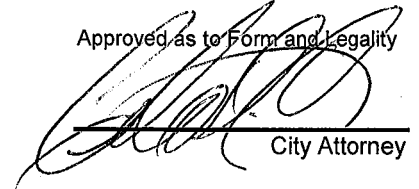
**ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:**

Use this sheet to provide any substantiating comments to support the ratings in the Performance Evaluation. Indicate before each narrative the number of the question for which the response is being provided. Attach additional sheets if necessary.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2016 JUN -2 PM 2: 27

**OAKLAND CITY COUNCIL**

Approved as to Form and Legality



City Attorney

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

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

**RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO BAY CONSTRUCTION, THE LOWEST, RESPONSIBLE, RESPONSIVE BIDDER, FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM CYCLE 5 (HSIP5): 98<sup>TH</sup> AVENUE, PROJECT NO. C468220 IN ACCORDANCE WITH PROJECT PLANS, SPECIFICATIONS, STATE REQUIREMENTS, AND WITH CONTRACTOR'S BID IN THE AMOUNT OF FIVE HUNDRED NINETY THOUSAND TWO HUNDRED FIFTEEN DOLLARS (\$590,215)**

**WHEREAS**, on December 17, 2015, one bid was received by the Office of the City Clerk for the construction of HSIP5 98<sup>th</sup> Avenue (C468220); and the bid was non-responsive and was rejected; and

**WHEREAS**, on March 3, 2016, two re-bids were received by the Office of the City Clerk for the construction of HSIP5 98<sup>th</sup> Avenue Project (C468220); and

**WHEREAS**, Bay Construction is deemed the lowest, responsible, responsive bidder for the HSIP5 98<sup>th</sup> Avenue Project (C468220), and the bid is compliant with the City's Equal Benefits Ordinance (EBO) and with the Federal Disadvantaged Business Enterprise (DBE) 10% participation requirements; and

**WHEREAS**, the HSIP5 grant for 98<sup>th</sup> Avenue Project includes funds earmarked for construction contract; and the grant requires a local match as a condition of the grant; and

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

- Highway Safety Improvement Program Cycle 5 (HSIP5), Federal grant \$531,193 for construction contract. State of California, Department of Transportation, Fund 2116; Transportation Services Division Organization 92246, Project C468220, Transportation and Pedestrian Safety Program NB33; and
- Measure BB Local Match \$59,022 for construction contract, Fund 2211 and 2216, Transportation Services Division Organization 92246, Project C468221 and C491140, Transportation and Pedestrian Safety Program NB33

**WHEREAS**, the engineer's estimate for the work is \$493,167.28; and

**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 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 HSIP5 98<sup>th</sup> Avenue Project is hereby awarded to Bay Construction, the lowest, responsible, responsive bidder, in accordance with project plans and specifications in the amount of Five Hundred Ninety Thousand Two Hundred and Fifteen Dollars (\$590,215); 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 Public Works or designee for this project are hereby approved; 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 City Administrator or designee is hereby authorized to enter into a contract with Bay Construction on behalf of the City of Oakland and execute any amendment or modifications to said agreement within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That all other bids are hereby rejected; 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.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and  
PRESIDENT GIBSON MCELHANEY

NOES -  
ABSENT -  
ABSTENTION -

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