

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

- 1) **AWARDING A CONSTRUCTION CONTRACT IN AN AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00) TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR THE CONSTRUCTION OF THE FIRE STATION NO. 10 DORMITORY RENOVATION PROJECT, IN ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS AND CONTRACTOR'S BID; OR**
- 2) **IF NO VALID BIDS ARE RECEIVED, OR THE BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE AND/OR EXCEED THE ENGINEER'S ESTIMATE BY MORE THAN TEN PERCENT (10%), THE CITY ADMINISTRATOR, OR DESIGNEE, MAY REJECT ALL BIDS AND AWARD THE CONTRACT, FOR AN AMOUNT NOT TO EXCEED ONE MILLION TWO-HUNDRED THOUSAND DOLLARS (\$1,200,000.00) IN THE OPEN MARKET, WITHOUT RETURN TO COUNCIL; AND**
- 3) **ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

WHEREAS, Fire Station No. 10 Dormitory Renovation Project is one of the 3 facilities projects funded by the first series of Measure KK – Affordable Housing and Infrastructure Bond in Fall 2017; and

WHEREAS, The City issued a Notice Inviting Bids for the Fire Station No. 10 Dormitory Renovation Project on October 22, 2021, with bids due to the City Clerk on November 18, 2021; and

WHEREAS, for the sake of public safety and continuity of service, it is necessary to expedite the construction contract award process prior to bids being opened to meet the targeted maximum eight weeks transition between the anticipated construction completion for Fire Station No. 16 in January 2022 and the construction start of Fire Station No. 10 in March 2022; and

WHEREAS, Staff is recommending that the City Administrator award a construction contract to the lowest responsive and responsible bidder that meets: 1) the City's bid process as determined by Public Works Department's Capital Contract Division, 2) the City's Compliance Programs, as determined by the City Administrator's Workplace and Employment Standards Department, and 3) the bid does not exceed the engineer's estimate by more than ten percent (10%) and funding is available; and

WHEREAS, if the bids received are deemed non-responsive to City's bid requirements and compliance programs and/or non-responsive because the lowest bid amount exceeds the engineer's estimate by more than ten percent (10%); and

WHEREAS, staff from Bureau of Planning have determined this project is exempt from California Environmental Quality Act (CEQA) review per California Code of Regulations, Section 15268: Ministerial Project, and pursuant to CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304(h) (minor alterations to land), and/or 15061(b)(3) (No Significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and

WHEREAS, the project has been publicly advertised and competitively bid, and further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, increase project costs and may not result in bids responsive to the project construction budget; and

WHEREAS, value engineering and negotiating with a contractor will be required to determine reasonable scope modifications to complete projects within the available budget, and

WHEREAS, OMC Section 2.01.050.1.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that is in the best interests of the City to do so and Section 2.04.050.J states that if no valid bids are received after advertising as required, the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market; and

WHEREAS, project funds are appropriated and allocated from Measure KK – Affordable Housing and Infrastructure Bond Fund (5330; Award 23253); Capital Projects Organization (92270); Building Account (57211); Fire Station CW Renovation Project (1003439); and Program (IN06); 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 the 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 service; no, therefore, be it

RESOLVED: That that the City Administrator is hereby authorized to award and execute a construction contract in an amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) to the lowest, responsive and responsible bidder, for the construction of the Fire Station NO. 10 Dormitory Renovation Project, in accordance with the project plans and specifications and contractor's bid; and be it

FURTHER RESOLVED: That the contractor shall meet: 1) City's bid process as determined by Public Works Department's Capital Contract Division, 2) City's Compliance Programs, as determined by the City Administrator's Workplace and Employment Standards Department, and 3) the bid does not exceed the engineer's estimate by more than ten percent (10%) and funding is available; and be it

FURTHER RESOLVED: That if bids are deemed non-responsive to City's Bid Requirements and Compliance Programs and/or non-responsive because the lowest bid amount exceeds the engineer's estimate by more than ten percent (10%), that all bids shall be hereby be rejected; and be it

FURTHER RESOLVED: That the City Council finds and determines that it is in the best interest of the City to waive further advertising and competitive bidding per OMC Section 2.04.050.I.5 because the project has been publicly and competitively bid, and further advertising and competitive re-bidding will delay the construction project start, increase construction costs due to escalation and project costs due to the re-bid, and may not result in bids responsive to the project construction budget and OMC Section 2.04.050.J authorizes the City Administrator to proceed to hire or have the services performed or purchase the supplies in the open market when no valid bids are received after advertising as required; and be it

FURTHER RESOLVED: That staff will negotiate the scope of work in order to secure a contract to complete projects within the available budget; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate and execute a construction contract without return to Council for construction of the Fire Station No. 10 Dormitory Renovation Project for an amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in accordance with the final negotiated project plans and specifications; and be it

FURTHER RESOLVED, That the Council finds that this project is exempt from CEQA pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 15183 (Projects Consistent with a Community Plan, General Plan or Zoning), 15301(c) (Existing Facilities, Highways and Streets), 15302 (Replacement or Reconstruction), 15303 (Small Structures), 15304(h) (minor alterations to land), and/or 15061(b)(3) (No Significant Effect on the Environment); each of the aforementioned provides a separate and independent basis for CEQA compliance; and be it

FURTHER RESOLVED: That the City Administrator shall file a Notice of Determination/Notice of Exemption with the Clerk of the County of Alameda on the project named in this resolution, if applicable; and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications, including any subsequent changes during construction, that will be reviewed and adopted by the Assistant Director of the Oakland Public Works Department for this project; and be it

FURTHER RESOLVED: That the City Administrator is authorized to execute any amendments or modifications of the contract within the limitations of project specifications; and be it

FURTHER RESOLVED: That the successful contractor shall comply with all City contracting and compliance program requirements that apply to this contract, and be verified by the Workplace and Employment Standards Department; and be it

FURTHER RESOLVED: That the successful contractor shall provide 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 and due under the Unemployment Insurance Act prior to the 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,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO, AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California