


Celso Ortiz (Sep 2, 2022 16:17 PDT)

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION: (1) WAIVING FURTHER ADVERTISING AND BIDDING AND (2) AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT IN AN AMOUNT NOT TO EXCEED EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$850,000.00) FOR THE HOLLY MINI PARK RENOVATION PROJECT (NUMBER 1004866); AND (3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS.

WHEREAS, on June 24, 2019, the City Council adopted the Fiscal Year (FY) 2019-2021 Midcycle Budget Amendment and appropriated One Million Eight Hundred Eighty-Nine Thousand Seven Hundred Seven Dollars (\$1,889,707.00) from the Sugar Sweetened Beverage Tax Measure HH Fund for a one-time investment to parks, tot lots, City pools, and recreation centers to the most impacted neighborhoods, of which One Hundred Sixty Thousand Seven Hundred Forty-Nine Dollars and Sixty-Nine Cents (\$160,749.69) was allocated to the Holly Mini Park Renovation project; and

WHEREAS, on December 10, 2019, the Holly Mini Park Renovation project was identified as a priority project in the FY 2019-2021 Capital Budget and funded by Series 2020B-1 and Series 2020B-2 of Measure KK – Affordable Housing and Infrastructure Bond in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00) as part of Resolution No 87981 C.M.S.; and

WHEREAS, on December 7, 2021, the City was awarded and entered into an agreement with the State of California Department of Parks & Recreation receiving Proposition 68 grant funds for the Holly Mini Park Renovation project in the amount of One Hundred Thousand Nine Hundred Fifty Two Dollars (\$100,952.00) per Resolution 88927 C.M.S.; and

WHEREAS, on July 15, 2022, the City Council adopted the FY 2022-2023 Midcycle Policy Budget and appropriated Two Hundred Fifty-Eight Thousand Dollars (\$258,000.00) to the Holly Mini Park Renovation project; and

WHEREAS, the Holly Mini Park Renovation project advances the Citywide priorities of sustainable infrastructure by replacing aging and unsafe elements at a City-owned facility; and

WHEREAS, on January 4, 2022, the City advertised the Holly Mini Park Renovation Project No. 1004866 for bid, and four bids were received by the City Clerk on April 7, 2022; and

WHEREAS, all bids were significantly over the current construction budget; and

WHEREAS, on May 24, 2022, the Department of Workforce & Employment Standards reviewed all four bids and determined that none of the bids met the Local Business Enterprise and Small Local Business Enterprise (L/SLBE) 50% trucking participation requirement, and all bids were deemed non-responsive and non-compliant; and

WHEREAS, further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, 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 the project within the available budget; and

WHEREAS, the Oakland Municipal Code (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 project is exempt from CEQA pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 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 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 all bids are hereby 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 further advertising and competitive re-bidding will delay the construction project, jeopardize grant funding, increase construction costs due to escalation, and may not result in bids responsive to the project construction budget and thus so waives these requirements; and be it

FURTHER RESOLVED, 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 be it

FURTHER RESOLVED: That staff will value-engineer and 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 award a construction contract for the construction Holly Mini Park Renovation Project Number 1004866 for an amount not to exceed Eight Hundred Fifty Thousand Dollars (\$850,000.00) in accord with the final revised project plans and specifications; and be it

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

FURTHER RESOLVED: That the Council finds that the 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 is authorized to file a Notice of Exemption with the Alameda County Clerk's Office and appropriate agencies.

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 100% of the contract price and 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,

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