



# AGENDA REPORT

**TO:** G. Harold Duffey  
Interim City Administrator

**FROM:** David Ferguson  
Interim Director, Oakland  
Public Works

**SUBJECT:** Digital Arts and Culinary Academy  
Improvements

**DATE:** February 27, 2023

City Administrator Approval: 

Date: Mar 9, 2023

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution:**

- 1) Waiving Further Advertising And Competitive Bidding And Authorizing The City Administrator To Award In the Open Market A Contract For The Digital Arts And Culinary Academy Improvements, Project Number 1004851, In An Amount Not To Exceed One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00); And**
- 2) Adopting Appropriate California Environmental Quality Act (CEQA) Findings.**

## **EXECUTIVE SUMMARY**

The City of Oakland (City) issued a formal competitive Invitation for Bids for the Digital Arts and Culinary Academy Improvements, Project Number 1004851 (Project) on July 29, 2022, with four bids received on September 8, 2022.

Analysis performed by the Department of Workplace & Employment Standards (DWES) on October 11, 2022 (**Attachment A**) identified that none of the four bids achieved 50% Local/Small Local Business Enterprise (L/SLBE) trucking participation. Therefore, all four bids were determined as non-responsive.

Approval of this resolution will authorize the City Administrator to reject all bids as non-responsive, waive further advertising and competitive bidding, and negotiate in the open market for a qualified, responsive, and responsible company to achieve compliance with all aspects of the City's L/SLBE program award and execute a construction contract for an amount not-to-exceed One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00) per the Oakland Parks, Recreation and Youth Development's priorities.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Digital Arts and Culinary Academy, located at 5818 International Boulevard, adjacent to the Rainbow Recreation Center, Council District 6, as shown in **Attachment B: Project Location Map**, has a core mission to help young participants grow and build self-confidence through

City Council  
March 21, 2023

afterschool and summer programs that focus on Digital Audio Production, Digital Video Production, Culinary Arts and Urban Agriculture. The project work is considered Phase 2 of the Digital Arts and Culinary Academy renovations. Phase 1 provided kitchen and studio upgrades.

Phase 2 improvements include removal of asbestos and lead present in floor and ceiling tiles and paints, provides structural and electrical upgrades, adds classrooms and a gender-neutral restroom, storage, new HVAC equipment and sprinkler systems, signage designating the facility with its new name, East Oakland Arts Center, and building façade renovations.

In November 2016, Oakland voters passed [Measure KK](#) to fund \$600 million of vital infrastructure improvements and Anti-Displacement and Affordable Housing Projects. The Project was approved in the Fiscal Year (FY) 2019-21 Capital Improvement Program budget in Resolution No. 87759 in June 2019.

### **ANALYSIS AND POLICY ALTERNATIVES**

The Project was advertised for bid on July 29, 2022. The bid documents included the base bid and two potential alternatives. On September 8, 2022, the Office of the City Clerk received four bids, and only two were within the City's estimate. The base bid included removal of hazardous materials, structural and electrical upgrades, new classrooms, gender-neutral restroom, HVAC equipment and sprinkler systems, and exterior signage. Bid Alternate #1 included installing new cement fiber siding on the east and north sides of the building. Bid Alternate #2 included new landscaping improvements. The bid summaries for the four companies are shown in **Table 1**.

**Table 1: Bid Break Out of Cost Elements**

<b>Company</b>	<b>Base Bid</b>	<b>Bid Alternate No. 1</b>	<b>Bid Alternate No. 2</b>	<b>TOTALS</b>
<b>Engineer's Estimate</b>	<b>\$1,805,000</b>	<b>\$298,726</b>	<b>\$63,774</b>	<b>\$2,167,500</b>
Bay Construction Company	\$1,796,000	\$40,000	\$186,000	\$2,022,000
CWS Construction Group, Inc.	\$1,765,000	\$141,875	\$130,000	\$2,036,875
S & H Construction	\$2,298,600	\$80,000	\$187,500	\$2,566,100
JUV, Inc.	\$2,320,777	\$170,000	\$145,500	\$2,636,277

Prior to issuance for bid, Oakland Public Works (OPW) staff met with the client, Oakland Parks, Recreation and Youth Development Department (OPRYD), to confirm priorities for award of bid

alternates, and base bid plus alternate bid 1, were deemed to be imperative. The Project priority is to remodel the building to meet the current building code so the building can support services to the community and surrounding neighborhoods. Due to the limitation on project funding, with the approval of OPRYD, the project will only execute base bid and alternative bid 1.

## **Bid Analysis**

According to Oakland's Municipal Code (OMC), Section 2.04.050, Item J, which pertains to bid procedure, in the event 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". With all firms lacking the fifty percent L/SLBE requirement for the trucking portion of the contract, in accordance with the bid documents, this renders all four firms non-responsive.

As a vital community resource, time is of the essence in executing and completing the work associated with this Project. Staff recommends, in accordance with OMC Section 2.04.050, Item I.5, that it is in the City's best interest to waive further advertising and competitive bidding on the following basis:

- Phase 2 construction is critical to provide essential services to support the center's operation.
- Rebidding the Project would delay the construction start date by a minimum of six months
- Due to the escalating and high inflation rate of the construction market, it would likely not result in more competitive bids.

This waiver permits the City's Administrator, to negotiate in open market and to select the most qualified, responsive, and responsible construction firm for the Project who achieves full compliance with the City's L/SLBE program and trucking participation.

It also permits the City's Administrator, to award the contract with amount Not To Exceed One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00), without going back to the Council.

Negotiations will be conducted on the open market with the four firms that submitted bids on September 8, 2022, starting with the lowest bidder per the Basis of Award included in the City's bid documents. Should negotiations with the lowest bidder be unsuccessful, staff will then begin negotiations with the next lowest bidder, until a successful bid firm is selected for award of the contract.

Adoption of the proposed resolution will advance the following Citywide Priorities:

- Holistic community safety: The remodeled Digital Arts Center will provide safe, comfortable space for educational opportunities, supporting the surrounding community

- Housing, economic, and cultural security: This facility focuses on supporting expressive and creative arts, supporting the cultural vitality of the community.
- Vibrant, sustainable infrastructure: Improvements to the building systems including electrical and HVAC upgrades will improve operational and energy efficiency for the facility.
- Responsive, trustworthy government: Moving forward with this resolution will allow the city to enforce its commitment to advocate for small local businesses while maintaining the approved contract amount.

**FISCAL IMPACT**

Funding for this contract is budgeted and available in the funding sources identified in **Table 2**.

**Table 2: Project Funding Sources**

<b>FUND SOURCE</b>	<b>AMOUNT</b>
Measure KK: Infrastructure and Affordable Housing Fund, (5335); Digital Arts & Culinary Academy Improvements Project (1004851); Project Management Organization (92270); Building: Additions and Improvements Account (57212); Project Award (23940); and Project Delivery Program (IN06).	\$1,025,000
Capital Improvements Impact Fee Fund (2421); Digital Arts & Culinary Academy Improvements Project (1004851); Project Management Organization (92270); Building: Additions and Improvements Account (57212); Project Award (23446); and Project Delivery Program (IN06).	\$800,000
Capital Reserves Fund (5510) Digital Arts & Culinary Academy Improvements Project (1004851); Project Management Organization (92270); Building: Additions and Improvements Account (57112); Project Award (24223); and Project Delivery Program (IN06).	\$ 11,000
<b>TOTAL</b>	<b>\$1,836,000</b>

No additional funding is requested.

**PUBLIC OUTREACH / INTEREST**

The Project was widely advertised. Oakland Public Works-Project & Grant Management Division (OPW-PGM) worked with Oakland Public Works-Capital Contracts Division (OPW- CCD) and Department of Workplace and Employment Standards to conduct public outreach for solicitation through the legal ads, enhanced notifications, and a pre-proposal meeting.

Notifications of solicitations were distributed by several means. The first through iSupplier system, which was utilized to notify Oakland-certified local and non-local, regional trade and business groups, including the Oakland Metropolitan Chamber of Commerce,

Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and the Construction Bid board.

In addition to iSupplier, OPW-CCD sent enhanced notification to the disparity outreach list by email as well as OPW-CCD's utilization of CIPList.com, a free, web-enabled site to announce and distribute solicitations. It was used to push out notifications to plan rooms and exchanges such as ARC North America, Builders Exchange of Alameda County, Contra Costa Builders Exchange, Dodge Data & Analytics, East Bay Blueprint, East Bay Blueprint, iSqFT, Northern California Electrical Construction Industry, Peninsula Builders Exchange, San Francisco Builders Exchange, and Solano-Napa Builders Exchange. Through CIPList.com, any company or entity may register to be automatically notified of all City of Oakland solicitations without restrictions.

The legal notice for Invitation to Bid was advertised on July 29, 2022. Legal notices were printed in the Oakland Post, Oakland Tribune, El Mundo, Daily Pacific Builder, World Journal, and the Korea Times publications to supplement and ensure the information reaches L/SLBE contractors.

OPW-CCD held an outreach/networking/pre-proposal meeting in partnership with the DWES and the project manager on August 8, 2022, with a total of (8) eight people and (5) five firms in attendance virtually. The meeting served a few purposes: to discuss with potential contractors how contracts are established with the City, to make those in attendance aware of possible upcoming work, to allow for opportunities for consultants to network and partner on upcoming work, and to discuss the current solicitation specifically.

Per City Council recommendations, staff has reached out to the small business community groups. The project is committed to ensure that the selected contract shall conform to the L/SLBE requirements and L/SLBE trucking requirements to encourage diversified local and small local business participation.

### **COORDINATION**

The work to be contracted has been coordinated with OPRYD, the City Administrators Office- ADA Program, along with DWES, OPW-CCD, Oakland Public Works Construction Management Division, and other divisions within OPW.

This report and the resolution have been reviewed by the Office of the City Attorney, the Budget Bureau, and DWES.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** With the upgrades and remodeling of this Project, the facility will be reopened for all programs, classes and workshops. The efficiencies and upgrades will allow for maximum use of the building year-round and throughout days, evenings and weekends. Modest fees are charged for classes and workshops, so with larger class capacities, as well as comfortable, year-round spaces, the increased attendance will increase revenues to OPRYD.

**Environmental:** The remodeling and upgrading of the Project will improve the aesthetic and physical condition of this important community resource. Removal of the hazardous materials, while non friable, will open the entire building for use and remove any potential for misuse of materials containing asbestos, or lead paint peeling off.

The contractor is required to comply with the City's Waste Recycling and Re-use Plan (WRRP). All hazardous materials will be segregated, sealed off and disposed of at the appropriately certified waste disposal facility, with a copy of the full chain of custody for the transference of materials to the designated waste facility.

**Race & Equity:** The Project will provide 3,832 square feet of safe, comfortable indoor educational space for an ethnically and racially diverse population, as well as a gender-neutral restroom. This center is within an area of Oakland where racially diverse and low-income populations have historically been underserved. See ***Attachment C: Measure KK Facilities Project Locations/Priority Neighborhoods.***

The Project is part of the continued capital program efforts to update aging infrastructure and improve City assets to provide equitable access for all community members.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Project is exempt from CEQA pursuant to CEQA Guidelines Sections 15268 (Ministerial Projects), 15301 (existing facilities), 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 above exemptions provides a separate and independent basis for CEQA compliance. If applicable, the City Administrator or designee shall file a Notice of Determination/Notice of Exemption with the Clerk of the County of Alameda.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that City Council adopt a resolution:

- 1) Waiving Further Advertising And Competitive Bidding, And Authorizing The City Administrator To Award In the Open Market A Contract For The Digital Arts And Culinary Academy Improvements, Project Number 1004851, In An Amount Not To Exceed One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00); And
- 2) Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Tess Kavanagh, CIP Coordinator, at 510-238-6542 or [tkavanagh@oaklandca.gov](mailto:tkavanagh@oaklandca.gov)

Respectfully submitted,



David Ferguson (Mar 9, 2023 18:40 PST)

David Ferguson  
Acting Director, Oakland Public Works

Reviewed by:  
Siew-Chin Yeong, Assistant  
Director Bureau of Design &  
Construction

Reviewed by:  
Denise Louie, Division Manager

Prepared by:  
Tess Kavanagh, CIP Coordinator

Attachments (3):

A: Compliance Analysis Inter-Office

B: Project Location Map

C: Measure KK Facilities Project Locations Map/Priority Neighborhoods