


Celso Ortiz (Mar 10, 2023 12:01 PST)

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

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**

WHEREAS, the Digital Arts and Culinary Academy Improvements Project, considered Phase 2 of upgrades to the Digital Arts and Culinary Academy facilities (Project), located in a neighborhood identified by Measure KK of highest priority for renovations and upgrades was legally advertised for Invitation to Bid on July 29, 2022; and

WHEREAS, the City Clerk received four formal competitive bids on September 8, 2022; and

WHEREAS, the City's bid documents required at least fifty percent of the trucking subcontractors, based on the City's Schedule R trucking bid line item, qualify as a Local/Small Local Business Enterprise; and

WHEREAS, the Department of Workplace and Employment Standards determined that no bid was valid due to non-compliance with the fifty-percent minimum Local/Small Local Business Enterprise trucking requirement; and

WHEREAS, staff recommends that the City Council reject all bids because they are non-responsive and not valid; and

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

WHEREAS, the City of Oakland Municipal Code (OMC) Chapter 2.04, Purchasing System, Section 2.04.050, Bid Procedure, Item 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, OMC Section 2.04.050 I provides that further advertising and bidding may be waived when the Council finds and determines that it is in the best interests of the City to do so; and

WHEREAS, the plans and specifications for the Digital Arts and Culinary Academy Improvements Project (Number 1004851) remain unchanged; and

WHEREAS, there were two Bid Alternates provided to the bidders: Alternate Number 1 is to provide additional low-maintenance cementitious fiber tiles on two additional walls visible to the public rather than repair and paint the existing stucco façade; Alternate Number 2 is to provide landscape upgrades that include a paved patio area, additional storage, additional raised planters, and planter irrigation; and

WHEREAS, Bid Alternate Number 2 will not be awarded due to budgetary constraints, and the contract award shall be for Base Bid and Alternate Number 1 only; and

WHEREAS, the manner in which negotiations will be conducted on the open market with the four firms that submitted bids on September 8, 2022, will be to start with the lowest bidder per the Basis of Award included in the City’s bid documents’ and 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; and

WHEREAS, staff recommends that the City Administrator award and execute a contract with the lowest responsible and responsive contractor/bid proposer that meets: 1) City’s Compliance Programs, as determined by the Department of Workplace and Employment Standards; and 2) the contract amount does not exceed One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00) for Base Bid and Alternate Number 1; and

WHEREAS, project funds are appropriated and allocated from Bond Measure KK, Fund (5335); Capital Improvements Impact Fee, Fund (2421); and Capital Reserves, Fund (5510); Project (1004851); Capital Project Organization (92270), Construction Services Account (57212), Measure KK Award (23940), Capital Improvements Impact Fee Fund Award (23446, and Capital Reserves Fund Award (24223); Program (IN06); and

RESOLVED, the City Council finds and determines that the performance of this contract is in the public interest because of economy or better performance; and

RESOLVED, the City Council finds and determines, based on representations set forth in the City Administrator’s report accompanying this Resolution that a construction contract for the Digital Arts & Culinary Academy Improvements Project is temporary in nature; and

RESOLVED, 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; now, therefore be it

RESOLVED: That the Council hereby rejects all bids received on September 8, 2022, for the Digital Arts and Culinary Academy Improvements Project based on the City Administrator’s Workplace and Employment Standards Department’s that all bids were found to be not valid due to the City’s fifty-percent Local/Small Local Business Enterprise trucking requirements; and be it

FURTHER RESOLVED: That the Council hereby finds and determines pursuant to OMC Section 2.04.050 I that it is in the best interests of the City to waive any further advertising and bidding for this project because Phase 2 construction is critical to provide essential services to support the center's operation and further advertising and 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 be it

FURTHER RESOLVED: That the City Administrator is authorized to solicit and award a contract on the open market system for the Digital Arts and Culinary Academy Improvements Project for a Not-To-Exceed amount of One Million, Eight Hundred Thirty-Six Thousand Dollars (\$1,836,000.00) in accordance with the plans and specifications issued on July 29, 2022 for the base bid and Alternate Number 1; and be it

FURTHER RESOLVED: That Project funds are appropriated and allocated from Bond Measure KK, Fund (5335); Capital Improvements Impact Fee, Fund (2421); and Capital Reserves, Fund (5510); Project (1004851); Capital Project Organization (92270), Construction Services Account (57212), Measure KK Award (23940), Capital Improvements Impact Fee Fund Award (23446, and Capital Reserves Fund Award (24223); Program (IN06); and be it

FURTHER RESOLVED: That the contract awarded must meet all of the City's contracting program requirements and standards; and be it

FURTHER RESOLVED: That a bond for faithful performance (not-to-exceed \$1,836,000.00); and the bonds to guarantee payment of all claims for labor and materials furnished and for the amount under the Unemployment Insurance Act, (not-to-exceed \$1,836,000.00); with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to enter into a contract on behalf of the City of Oakland and to execute any amendments or modifications of the contract within the limitations of the project plans and specifications; and be it

FURTHER RESOLVED: That the plans and specifications prepared for this project, including any subsequent changes during construction, will be reviewed and adopted by the Director of Oakland Public Works, are hereby approved; 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 Council directs the City's Environmental Review Officer to file a Notice of Exemption with the Alameda County Clerk's Office and appropriate agencies; and be it

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to approve any subsequent amendments to or extensions of said agreement provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

FURTHER RESOLVED: That a copy of the Agreement will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED

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

3. RESOLUTION_DACA_02142023bi TKREV

Final Audit Report

2023-03-10

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