

  
Celso Ortiz (Jan 31, 2024 2:03:32 PST)  
 CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

**RESOLUTION:**

**1) AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT THAT FOLLOWS ALL CITY ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, IN ACCORD WITH PROJECT PLANS AND SPECIFICATIONS AND WITH CONTRACTOR'S BID FOR PROJECT NO. 1006466 CARY AVENUE TRASH CAPTURE PROJECT FOR AN AMOUNT NOT TO EXCEED THREE MILLION THIRTY-SIX THOUSAND ONE HUNDRED FORTY-FIVE DOLLARS (\$3,036,145.00), CONTINGENT UPON CALTRANS APPROVAL OF ADDITIONAL FUNDING, WITHOUT RETURN TO CITY COUNCIL; 2) IF NO VALID BIDS ARE RECEIVED, AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A CONSTRUCTION CONTRACT IN THE OPEN MARKET; AND 3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR PROJECT NO. 1006466 CARY AVENUE TRASH CAPTURE PROJECT.**

**WHEREAS**, the City of Oakland (City) is subject to the San Francisco Bay Regional Water Quality Control Board's (Water Board) National Pollutant Discharge Elimination System (NPDES), Municipal Regional Stormwater Permit (MRP) that regulates the discharge of stormwater; and

**WHEREAS**, all cities regulated by the MRP are required to reduce the amount of trash loads discharging from their storm drain systems by 100% by June 30, 2025, from baseline levels established circa 2009; and

**WHEREAS**, one of the principal and most effective ways that municipalities can meet trash load reduction targets is through the installation of devices approved by the Water Board that meet the definition of Full Trash Capture (FTC); and

**WHEREAS**, the Cary Avenue FTC Project (Cary Avenue Project) advances the Citywide priority of vibrant, sustainable infrastructure; and

**WHEREAS**, the City lacks the equipment, and qualified or specialized personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is of a professional, scientific or technical nature; 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; and

**WHEREAS**, Oakland Public Works worked with the Department of Workplace and Employment Standards (DWES) to conduct an availability analysis of the certified local and small local business enterprise (L/SLBE) contractors with the necessary experience, expertise, and credentials; and

**WHEREAS**, based on the results of the availability analysis, the 50% L/SLBE requirement was set at 20%; and

**WHEREAS**, subject to the terms and conditions of a Cooperative Implementation Agreement, the California Department of Transportation (Caltrans) has agreed to provide an amount not to exceed three million two hundred thousand dollars (\$3,200,000.00) to the City for the design and construction of the Cary Avenue Project; and

**WHEREAS**, subject to the terms and conditions of the Cooperative Implementation Agreement (Cooperative Agreement) the City has agreed to implement the Cary Avenue Project and to assume the operation and maintenance of the FTC facility; and

**WHEREAS**, a Notice to Proceed must be issued for the Cary Avenue Project by March 1, 2024, and the construction work must be completed during the dry season between April 1, 2024, and October 1, 2024, to meet the terms and conditions of the Cooperative Agreement and the MRP trash load reduction requirement; and

**WHEREAS**, Caltrans has committed to provide additional funding to the Cary Avenue Project based on the final lowest responsive and responsible bid recommendation or on the final open market accepted and negotiated bid; and

**WHEREAS**, the City and Caltrans find that collaborating on the implementation of a FTC facility is a cost-effective, mutually beneficial approach to meeting the MRP trash capture and trash load reduction requirements; and

**WHEREAS**, the Cary Avenue Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Alteration/Minor Addition to Existing Facilities) because the project is a minor alteration to an existing, publicly owned utility involving negligible or no expansion of an existing use; and

**WHEREAS**, if the project is not able to enter into a construction contract timely, the project will be unable to move forward and the City would be forced to forfeit \$3,185,930.00 in Caltrans grant funding and would lose 4.3 percent MRP trash load reduction credit that would need to be achieved through other less effective and more costly methods; now therefore be it

**RESOLVED:** That the City Administrator is authorized to award a construction contract not to exceed three million thirty-six thousand one hundred forty-five dollars (\$3,036,145.00), to the lowest, responsible, and responsive bidder, for the Cary Avenue Project (Project No. 1006466) or to reject all bids and award the contract in the open market, without return to Council, if no valid bids are received for the project, or the bids are deemed non-responsive or non-responsible; and be it

**FURTHER RESOLVED:** That funding for the project is available in the following account: Cary Avenue FTC Grant – Caltrans CIA (2140); Organization (#92245); Project (1006466); and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate Caltrans CIA # D43CIAOAK0002 grant terms and conditions for the project, including accepting additional grant funds, executing, modifying, amending, and extending the CIA, expending CIA grant funds, and taking all other actions with respect to the Caltrans CIA grant funding for the Cary Avenue Project; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to appropriate additional funds should they be received for the Cary Avenue Project through the Caltrans CIA # D43CIAOAK0002 in the following accounts: Cary Avenue FTC Grant – Caltrans CIA (2140); Organization (#92245 and #30245); Project (1006466); and be it

**FURTHER RESOLVED:** That the City Administrator will provide an informational memorandum to the Council summarizing the bid result and compliance analysis result upon completion of the bid evaluation process for the Cary Avenue Project and after finalizing result of negotiation by the City Administrator for any open market contracting; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared for the Cary Avenue Project, including any subsequent changes during construction, will be reviewed, and adopted by the Director of Oakland Public Works and are hereby approved; and be it

**FURTHER RESOLVED:** That the successful contractor shall comply with all City contracting and compliance program requirements that apply to the applicable contract, as verified by DWES; and be it

**FURTHER RESOLVED:** That the successful contractor shall provide faithful performance bonds 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 the execution of the contract; and be it

**FURTHER RESOLVED:** That the construction contract for the project 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; and be it

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

**FURTHER RESOLVED:** That the Council independently finds and determines that the Cary Avenue Project is exempt from CEQA pursuant to CEQA Guidelines Section 15301, Alteration/Minor Addition to Existing Facilities; and be it

**FURTHER RESOLVED:** That the City Administrator, or his designee, is authorized to file a Notice of Exemption with the County of Alameda.

IN COUNCIL, OAKLAND, CALIFORNIA,

**PASSED BY THE FOLLOWING VOTE:**

AYES – FIFE, GALLO, KALB, KAPLAN, REID, RAMACHANDRAN, JENKINS and  
PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
Asha Reed  
City Clerk and Clerk of the Council  
of the City of Oakland, California