

City Attorney

OAKLAND CITY COUNCIL

2017 JUN 14 PM 4:22

RESOLUTION No. 86790 C.M.S.

Introduced by Councilmember _____

A RESOLUTION REJECTING ALL BIDS, WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AND AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE AND EXECUTE A CONSTRUCTION CONTRACT UP TO AN AMOUNT OF NINE HUNDRED TEN THOUSAND DOLLARS (\$910,000.00) IN THE OPEN MARKET FOR THE WOODMINSTER AMPHITHEATER – PHASE 2 AMERICANS WITH DISABILITIES ACT (ADA) IMPROVEMENTS (PROJECT NO. 1000964) IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, AND TO ALLOCATE FROM WOODMINSTER MISCELLANEOUS TRUST FUND (7999) UP TO AN AMOUNT OF ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00) TO THE CAPITAL IMPROVEMENT PROJECT ORGANIZATION (92270) UNDER PROJECT NO. 1000964.

WHEREAS, the Woodminster Amphitheater Phase 2 ADA Improvements Project must be completed by December 31, 2018, to satisfy the facility related injunctive relief, pursuant to an ADA lawsuit settlement involving the City (*White v. Oakland*); and

WHEREAS, the Phase 2 ADA improvements entail the construction of new wheelchair accessible seats and other access improvements at the lower amphitheater that include accessible parking, restroom accommodations, and a picnic area with compliant paths of travel; and

WHEREAS, the Phase 1 ADA improvements to the upper amphitheater access features, also part of the lawsuit settlement requirements, were completed in 2014; and

WHEREAS, the Phase 2 construction project is anticipated to begin in the fall of 2017 and completed by April 2018 before the start of the 2018 performance season; and Woodminster Amphitheater will be closed to the public during the construction; and

WHEREAS, on April 20, 2017, the City Clerk received three bids for the project; and

WHEREAS, Bay Construction was the lowest apparent bidder, but, within the five-working days of the bid opening, Bay Construction requested a withdrawal of their bid and bid security, claiming a clerical error per the California Public Contract Code (CPCC) Section 5103; and

WHEREAS, the two remaining bids are significantly over the current construction budget, and the bids were deemed non-compliant with the City's L/SLBE Program requirements; and

WHEREAS, 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, advertising and competitive bidding at this junction will delay the construction project which is already anticipated to occur during the rainy season, and the project has to be completed and the amphitheater reopened to the public by April 2018 for the amphitheater users and patrons to prepare for the 2018 performance season; now, therefore be it

RESOLVED: That all bids are hereby rejected; and be it

FURTHER RESOLVED: That the City Council finds and determine 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; and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to negotiate and execute a construction contract for the Woodminster Amphitheater – Phase 2 ADA Improvements (Project No. 1000964) up to an amount of \$910,000 in the open market, and to execute amendments or modifications of the contract within the limitations of the contract documents; and be it

FURTHER RESOLVED: That the project funding is available through Capital Improvement Program Budget and On-Call ADA Capital Improvement Projects appropriations under General Purpose Fund (1010) in Capital Improvement Project (CIP) Organization (92270) for Woodminster Phase 2 ADA Improvements Project (No. 1000964); and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to allocate from Miscellaneous Trust Fund (7999) in the Office of OPR Director Organization (501110) for Woodminster Project (No. 1000812) up to an amount of \$130,000.00, available in the FY 2017-19 Proposed Budget and contingent upon the adoption of the budget, to the CIP Organization (92270) for the Woodminster Phase 2 ADA Improvements Project (No. 1000964); and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to negotiate, execute a construction contract up to an amount of \$910,000 in the open market; and be it

FURTHER RESOLVED, That the City Administrator, or designee, is hereby authorized to execute any amendments or modifications of said contract within the limitations of the specifications of the construction contract; and be it

FURTHER RESOLVED: That the cost to implement the Project is necessary to satisfy the injunction relief of the ADA lawsuit settlement before the deadline of December 31, 2018; and be it

FURTHER RESOLVED: That the plans and specifications prepared for this project, including any subsequent changes during construction, that will be reviewed and adopted by the Director, or designee, are hereby approved; and be it

FURTHER RESOLVED: That the contractor for the project shall comply with all City contracting and compliance program requirements that apply to this contract, including Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation and be verified by the Social Equity Division of the Department of Contracting and Purchasing Contracts and Compliance Division; 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 and for the amount of 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, JUN 20 2017

PASSED BY THE FOLLOWING VOTE:

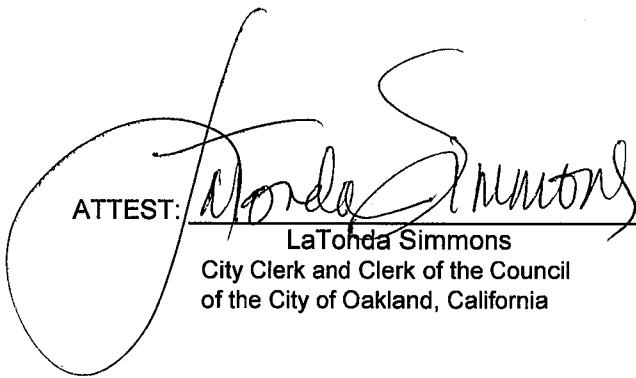
AYES - ~~UNRECORDED~~ CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID -7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - 1 - Brooks

ATTEST: 
LaTohda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California