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OFFICE OF THE CITY CLERK
OAKLAND

2018 FEB -8 PM 4: 27

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jason Mitchell
Director, Public Works

SUBJECT: Construction Contract Amendment for
Rainbow Recreation Center
Renovation & Expansion

DATE: January 30, 2018

City Administrator Approval

Date:

2/8/18

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Waiving Advertising And Competitive Bidding And Authorizing The City Administrator, Or Designee, To

- 1) Increase The Construction Contract Amount For The Rainbow Recreation Center Renovation And Expansion Project (Project No. 1000854) With JUV, Inc., From Eight Million Seven Hundred Thousand Dollars (\$8,700,000.00) To Ten Million One Hundred Fifty Thousand Dollars (\$10,150,000.00); And**

- 2) Approve And Reallocate Total Additional Funds Of Two Million One Hundred Sixty-Five Thousand Dollars (\$2,165,000.00) Aggregated From The Following East Bay Regional Parks District Open Space Wildlife, Shoreline and Parks Measure WW Bond Sources (Fund 2260): The City Stable Project (No. 1001014), Allendale Recreation Center Project (No. 1003376), Caldecott Trail Project (No. 1001412) and Curt Flood Field Project (No project number established) To The Rainbow Recreation Center Renovation and Expansion Project (No. 1000854) For Construction And Project Contingency, And Submit The Project To The East Bay Regional Parks District Per Measure WW Bond Requirement, Or Consider And Approve Alternate Funding Sources, Including Measure KK.**

EXECUTIVE SUMMARY

In September 2017, the Rainbow Recreation Center (RRC) Improvement Project was issued for construction bid however, all bids were significantly higher than the available construction budget. On November 28, 2017, City Council authorized the City Administrator, or Designee, to reject all bids and negotiate a construction contract for the Rainbow Recreation Center Renovation and Expansion Project on the open market in an amount not to exceed \$8,700,000 (under Resolution No. 86975 C.M.S.). In order to select the firm, staff conducted a limited invitation bid process inviting three interested contractors to submit a bid for the project in November 2017. The three firms submitted bids in December 2017. Although lower than the public bids previously received, all three bids came in higher than the \$8.7 million authorization. As the lowest apparent bidder of the three firms, JUV, Inc., a local certified business, and the City entered into negotiations to significantly value engineer and reach a construction contract of

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February 13, 2018

\$8,700,000. However, the resulting project would not provide the City with a facility that could meet the requirements of the code, grant and previously agreed upon design in accordance to the legislative scope approved prior by City Council, nor be occupied and open to the public.

BACKGROUND/LEGISLATIVE HISTORY

On November 28, 2017, City Council authorized negotiating a construction contract for an amount of \$8,700,000 under Resolution No. 86975 C.M.S. shown in **Attachment B**. City Council approved the revised Resolution that included changes to the language proposed at and passed by the Public Works Committee on November 14, 2017. The revised Resolution requires the project to remain in accordance with the original design intent.

ANALYSIS AND POLICY ALTERNATIVES

It is in the best interest of the City to approve the proposed resolution and waive further advertising and competitive bidding per the Oakland Municipal Code (OMC) Section 2.04.050.1.5, and authorize the City Administrator, or Designee, to amend Resolution No. 86975 C.M.S. increasing the contract from \$8,700,000.00 to \$10,150,000.00 for construction of the Rainbow Recreation Center Renovation and Expansion project with JUV, Inc. JUV, Inc. will be required to be in compliance with the City's Local and Small Local Business Enterprise Program. In addition, funding would be authorized from available funds in various Measure WW grant projects, totaling \$2,165,000.00, for the implementation of construction for the approved design. It is in the best interests of the City to waive advertising and competitive bidding per OMC Section 2.04.05.1.5 in order to meet the State Park and Measure WW grant funding expiration in 2018 and because of current construction market indications, a rebid of the project would not guarantee lower pricing or generate more interest in the project.

The work to be completed under this project is part of the 2011-13 Park Project Prioritization list and Fiscal Year 2017-19 approved Measure KK projects. The work is located in Council District 6 as shown in **Attachment A - Project Location Map**. This project will rebuild the existing facility and add approximately 3,800 square feet of building space for a total of 13,000+ sq. ft. recreation center. The expanded new facility will accommodate multiple user groups in an underserved community and address deficiencies within the building systems, kitchen and restroom/shower facilities, convert an unused tennis court into a soccer/flag football practice field, and improve landscape, picnic, lighting and other site amenities.

Construction Cost:

Staff began negotiation with JUV, Inc., the lowest apparent bidder, as determined by a limited invitation bid process. It was clear in early discussions that to reach a scope meeting the authorized amount, significant value engineering would be required. The majority of the site scope would be eliminated and the building scope would be affected leaving the City with a building that did not meet the original design intent. Failure to meet the original

design intent would result in not receiving a Certificate of Occupancy and/or non-compliance with grant obligations.

As the construction industry market is experiencing a tremendous growth, pricing offered by the general contractors and subcontractors can only be held with offering a full scope contract. The contractor has received notifications from suppliers that prices are increasing monthly. Time is of the essence to complete the construction of the project by the end of calendar year 2018 to meet grant expenditure and expiration deadlines. The construction period is 10 months.

Alternatively, staff and the general contractor looked at many options to initiate construction and add back scope of work as change orders when additional funding becomes available. However, the pricing of the remaining scope via change order work could not be guaranteed by the general contractor in today's market conditions, making funding needs difficult to identify and the project more expensive.

The negotiated scope for the \$8.7 million project will not result in a code compliant facility that will receive a Certificate of Occupancy. The resultant project also would not comply with City's agreements with its grantors, the State Department of Parks & Recreation, and risk losing reimbursements and future grant awards. The smaller scope also would not comply with the legislative requirements of Resolution 86975 C.M.S. approved by City Council on November 28, 2017, requiring the project to remain in accordance with the original design intent.

In comparison, the Golden Gate Recreation Center, completed in 2015, at the cost of \$9.3 million total project is relatively comparable to this project. The construction market increased by an average of 5% per year in the last three years (per Turner Construction Index) and projected 6% for this year (by Sanfrancisco.org of the City and County of San Francisco). That would bring the Golden Gate project cost to over \$11 million.

Because of the market conditions, grant and legislative requirements, it is in the City's best interest to invest in and complete this shovel-ready project and bring to fruition the efforts of the community members of District 6 who support and provided input on the program and design from the beginning of the project. Thus, City Administrator has identified and is proposing additional fund sources to complete the entire project scope.

The current total construction fund need for the project is as follows:

Construction contract:	\$10,150,000.00
<u>Construction contingency (10%):</u>	<u>1,015,000.00</u>
Total fund need:	11,165,000.00
<u>Current available Construction funds:</u>	<u>\$9,000,000.00</u>
Fund Shortfall:	\$2,165,000.00

Funding Options:

Measure WW:

The City currently has \$2,638,700 remaining in Measure WW, East Bay Regional Park Districts (EBRPD) Open Space Wildlife, Shoreline and Parks Bond funds in four City Council approved projects that could be immediately available to the RRC project. The reallocation of project funds previously approved for the Measure WW bond will provide the funding needed to complete the RRC project meeting program, code and legislative requirements. The current four Measure WW projects are not shovel ready and could be back-filled with funding from other potential sources such as Measure KK, Infrastructure and Affordable Housing Bond, and/or Measure HH, Sugar Sweetened Beverage Tax. The grant expiration for Measure WW is December 2018. Although an extension could be requested from EBRPD, the approval cannot be guaranteed and funds could therefore be lost.

Rainbow Recreation Center meets the requirements of the Measure WW bond. The Master Agreement has been in place since 2009 which allows expenditures to incur before an individual project's review.

The four Measure WW projects' status are as follows:

- *Allendale Recreation Center* – The facility is located on Oakland Unified School District (OUSD) property. The Measure WW Bond requires a 30-year lease from OUSD as part of the capital improvement terms. Renewing a long-term lease with OUSD has been proposed but challenging. Backfilling funds from Measure KK and/or Measure HH for the project could remove this requirement and expedite improvement implementation. No work has begun on this project. Measure WW funds approved for this project is \$500,000.00.
- *Curt Flood Field* –The Curt Flood Field has been an endeavor by the community and OUSD as a school is located adjacent to the site and shares usage under City-OUSD agreement. The original project scope identified will cost three-times the current allocation and scope reduction is required. The Curt Flood Field project is already a part of three other field electrical improvement projects approved for Measure KK funds in Fiscal Year 2017-2019. This project is in preliminary assessment phase. Curt Flood Field would qualify for additional Measure KK funding and other potential grant fund sources related to sports fields. Measure WW funds approved for this project is \$1,031,700.00.
- *City Stables* – The City Stables used part of Measure WW funds for adding a paddock shade-structure and haybarn as well as replaced a roof for one of the structures. However, the City Stables facility needs significant overall improvement and major funding to overhaul the site and structures, which is more than the remaining balance can address. No additional work is currently in progress. An overall vision/plan for the site is necessary to effectively seek funding for the needed improvements. Measure WW funds remaining for this project is \$147,000.00.

- *Caldecott Trail* – The proposed trail improvement is to connect the trail from the North Oakland Regional Sports Field (by Caldecott Tunnel and Temescal Lake) up to Skyline Blvd. and to the Sibley Regional Park. However, the connection is challenging as adjacent properties are privately owned. The current project scope is limited to trail head and accessibility improvements from the parking lot to the trail head. The project consultant has just been hired for the trailhead improvement scope. Measure WW funds remaining for this project is approximately \$960,000.00.

All four projects are either in preliminary stages or no work in progress. If Measure WW funds are reallocated, Allendale, Curt Flood Field, City Stables and the Caldecott Trail could potentially receive backfill funds from the following sources:

Measure KK:

Measure KK, the City of Oakland General Obligation Bond was approved in November 2016 by voters to fund \$600 million of vital Infrastructure Improvements and Anti-Displacement and Affordable Housing Projects. The Bond requires that the projects identified meet criteria established in the bond language and the City Council approve each set of projects to be funded and implemented prior to the issuance of each series of Measure KK bonds. The projects will need to be evaluated against the bond criteria.

Measure HH:

Measure HH, Sugar Sweetened Beverage Tax was approved in November 2016 by 61% of the voters. The tax objective is to establish and fund programs to prevent or reduce the health consequences of consuming sugar-sweetened beverages in Oakland communities by supporting education and prevention programs. Appropriation of Measure HH fund requires review and recommendation by an Advisory Board.

Funding Alternatives for RRC

Alternatively, various combinations of Measure KK, Measure WW, and Measure HH funding could also be considered. For example, Measure WW which is immediately available could fund the base contract only, with contract contingency from Measure HH allocated in the mid-cycle budget review, upon the Advisory Board's recommendation and approval by Council. In another scenario, if RRC can be fully funded by Measure HH for the short fall of \$2.16 million at a later date, Measure WW funds can then be rediverted back to the four projects. As part of Measure WW fund procedures, the RRC project will need to be submitted for EBRPD review.

The RRC has existing programs, and will be able to expand programs once the construction is complete, to continue and expand education and health programs associated with the consequences of sugar consumption. The center serves the communities of Seminary, Hegenberger, Lockwood Gardens, Wentworth Hollands and nearby neighborhoods. Within half mile radius of the building, the Census shows a total population of 12,321 residents with 30% youths. The median household income is below \$33,000 per year and the area has only 0.32 park acres per 1000 residents when California Department of Parks goal is 3 park acres per 1000 residents. Within five to six blocks of the facility, there is at least one market and/or small

mart on each block that sells sugar drink products. The RRC project incorporates a new kitchen and provides foods that are healthy and low in sugar for program attendees. The facility will provide indoor and outdoor programs to educate about healthy eating (edible garden and culinary classes), promote physical health and prevention to combat the adverse effect of sugar consumption via recreation. Rainbow Recreation Center project will promote the Measure HH objectives.

FISCAL IMPACT

Staff is requesting approval to increase the construction contract from \$8,700,000.00 to \$10,150,000.00 to preserve the Rainbow Recreation Center Renovation & Expansion Project per plans and specifications, and provide additional funds from the sources proposed below to complete the on-going Rainbow Recreation Center project.

FUND SOURCE	AMOUNT
Reallocate a portion of funds from the East Bay Regional Park District Open Space Wildlife, Shoreline and Parks Bond-Measure WW (2260); Caldecott Trail Project (No. 1001412) to Rainbow Rec. Ctr. Expansion Project (No. 1000854), Capital Projects Org. (92270), Structures and Improvements Account (57211)	\$486,300.00
Reallocate remaining balance from the East Bay Regional Park District Open Space Wildlife, Shoreline and Parks Bond-Measure WW (2260); City Stables Project (No. 1001014) to Rainbow Rec. Ctr. Expansion Project (No. 1000854), Capital Projects Org. (92270), Structures and Improvements Account (57211)	\$147,000.00
Reallocate from the East Bay Regional Park District Open Space Wildlife, Shoreline and Parks Bond-Measure WW (2260); Curt Flood Field Project (No project number established yet) to Rainbow Rec. Ctr. Expansion Project (No. 1000854), Capital Projects Org. (92270), Structures and Improvements Account (57211)	\$1,031,700.00
Reallocate from the East Bay Regional Park District Open Space Wildlife, Shoreline and Parks Bond-Measure WW (2260); Allendale Recreation Center Project (No. 1003376) to Rainbow Rec. Ctr. Expansion Project (No. 1000854), Capital Projects Org. (92270), Structures and Improvements Account (57211)	\$500,000
TOTAL FUNDS	\$2,165,000.00

PUBLIC OUTREACH/INTEREST

A series of five (5) meetings with the community, focus groups and Neighborhood Crime Prevention Council were conducted in 2011 to develop the concept plan that was submitted for Round 2 of the Proposition 84 grant application. The meetings identified and prioritized the community's need for activities, adjacencies, safety and beautification.

Upon grant award, an additional six (6) meetings with community and focus groups were conducted in 2015 – 2017 to fine-tune the design and discuss architectural style, colors and materials. The Rainbow Recreation Center project was endorsed by the Park and Recreation Advisory Committee in October 2016 and approved by the Planning Commission in May 2017. The project was noticed to adjacent properties through the City's Planning and Zoning Approval process for a Conditional Use Permit and Regular Design Review.

COORDINATION

The project has been coordinated within Public Works Department, Parks & Recreation Department and Contracts & Compliance Division of the City Administrator's Office. This report has been reviewed and approved by Office of the City Attorney and Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: This project replaces damaged and aged City infrastructure. The contractor is verified for Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation by the Social Equity Division of the Department of Contracting and Purchasing. The construction services provided by local firms will result in dollars being spent locally. In addition, upon completion, the recreation center will be a value-added asset to the City that could generate additional revenues for the City and local businesses.

Environmental: The contractor is required to comply with the City's Waste Recycling and Re-use Plan (WRRP). The new facility will be energy efficient, achieving Leadership in Energy and Environmental Design (LEED) Silver rating and with water conserving irrigation and plumbing fixtures and native planting. The project design incorporated strategies to maximize natural lighting and cross ventilation for the facility.

Social Equity: The facility is the only recreation center serving East Oakland in the Seminary, Lockwood Garden, Melrose and other neighborhoods along International Boulevard. The expanded facility will offer new programming opportunities in a new, updated facility to better serve the community that has highest ethnic diversity, economically challenged, and a high youth population. The expanded facility will be compliant with the American Disability Act, providing improved access to staff and patrons such as seniors and those with mobility impairment.


ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution waiving advertising and competitive bidding and authorizing the City Administrator, or Designee, to 1) Increase the construction contract amount for the Rainbow Recreation Center Renovation and Expansion Project (Project No. 1000854) with JUV, Inc., from Eight Million Seven Hundred Thousand Dollars (\$8,700,000.00) To Ten Million One Hundred Fifty Thousand Dollars (\$10,150,000.00); and

2) Approve and reallocate total additional funds of Two Million One Hundred Sixty-Five Thousand Dollars (\$2,165,000.00) aggregated from the following East Bay Regional Parks District Open Space Wildlife, Shoreline and Parks Measure WW Bond Sources (Fund 2260): The City Stable Project (No. 1001014), Allendale Recreation Center Project (No. 1003376), Caldecott Trail Project (No.01001412) and Curt Flood Field Project (no project number established) to the Rainbow Recreation Center Renovation and Expansion Project (No. 1000854) for construction and project contingency, and submit the project to the East Bay Regional Parks District per Measure WW Bond requirement, or consider and approve alternate funding sources, including Measure KK.

For questions regarding this report, please contact Denise Louie, C.I.P. Coordinator at (510) 238-3682.

Respectfully submitted,



JASON MITCHELL
Director, Oakland Public Works

Reviewed by:
Danny Lau, P.E., Assistant Director
Bureau of Design & Construction

Reviewed by:
Matthew Lee, P.E., Division Manager
Project Delivery Division

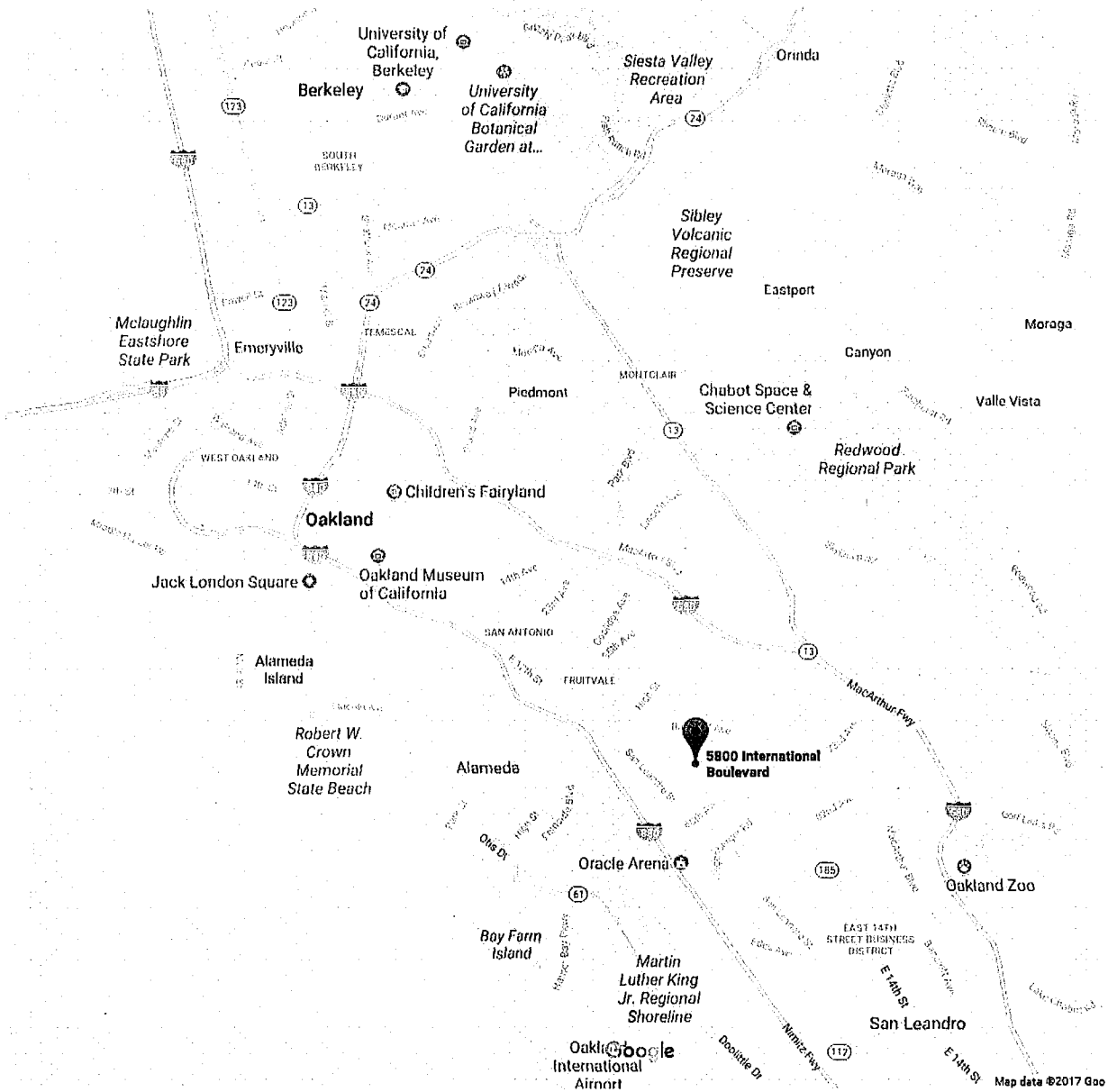
Prepared by:
Denise Louie, LEED AP, CIP Coordinator
Project Delivery Division

Attachments (2):

A: Project Location Map

B: Resolution No. 86975 C.M.S.

ATTACHMENT A: LOCATION MAP



Rainbow Recreation Center
5800 International Boulevard

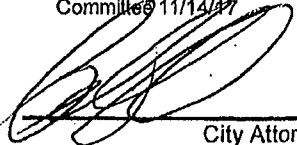
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City Council
February 20, 2018

FILED
OFFICE OF THE CITY CLERK
OAKLAND

NOV 21 PM 12:35

ATTACHMENT B

Revised per Public Works
Committee 11/14/17


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 86975 C.M.S.

Introduced by Councilmember _____

RESOLUTION REJECTING ALL BIDS, WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING, AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO NEGOTIATE, AWARD AND EXECUTE A CONSTRUCTION CONTRACT WITHOUT RETURN TO COUNCIL FOR AN AMOUNT NOT TO EXCEED EIGHT MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$8,700,000.00) IN THE OPEN MARKET FOR THE CONSTRUCTION OF THE RAINBOW RECREATION CENTER RENOVATION AND EXPANSION PROJECT (NO. 1000854) IN ACCORDANCE WITH THE PROJECT PLANS AND SPECIFICATIONS

WHEREAS, the Rainbow Recreation Center was identified as a priority project in the FY11-13 Park Project Prioritization list approved by Council under Resolution No. 83725 C.M.S. in February 2012; and

WHEREAS, on May 17, 2011 the City Council approved Rainbow Recreation Center project as one of six projects to apply for Round 2 of the Proposition 84, the Clean Water, Parks and Coastal Protection Act competitive grant in Resolution No. 83367 C.M.S.; and

WHEREAS, in October 2013 the City was awarded and entered into an agreement with the State of California Department of Parks & Recreation receiving Proposition 84 grant funds for the project; and

WHEREAS, on March 1, 2016 the City Council approved Resolution No. 86028 C.M.S. allowing staff to apply for, accept and appropriate grant funds from the California Department of Housing and Community Development for the 2015 Housing Related Parks Program (HRPP) for the Rainbow Recreation Center; and

WHEREAS, on October 4, 2016 the City Council approved Rainbow Recreation Center as one of two projects to apply for the Proposition 40 California Youth Soccer and Recreation Development Program in Resolution No. 86407 C.M.S.; and

WHEREAS, in November 2016 the Measure KK General Obligation Bond was approved by the voters of Oakland to fund \$600 million of vital infrastructure improvements and anti-displacement and affordable housing projects; and

WHEREAS, in February 2017 the City entered into Agreement with the State of California Department of Housing and Community Development receiving grant funds for the project; and

WHEREAS, on June 19, 2017 the City Council approved Rainbow Recreation Center in the list of projects commencing with the first Measure KK bond issuance in Resolution No. 86779 C.M.S.; and

WHEREAS, on September 1, 2017 the City advertised the Rainbow Recreation Center Renovation & Expansion Project No. 1000854 for bid and 2 bids were received in the amounts of \$10,795,000 and \$11, 282,000 by the City Clerk on September 28, 2017; and

WHEREAS, in October 2017 the City is in the process of entering an Agreement with the State of California Department of Parks & Recreation receiving Youth Soccer grant funds for the project; and

WHEREAS, both bids were deemed non-responsive as the contractors did not meet the City's Local and Small Local Business Enterprise program as reviewed by the Contracts and Compliance Unit and both bids were significantly over the construction estimate of \$8,200,000; 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 Section 2.04.050.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, advertising and competitive re-bidding will delay the construction project which is to be completed and opened to the public by December 31, 2018 before grant funds expiration;

WHEREAS, 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

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 and per Section 2.04.050.J that the City Administrator may proceed to hire or have

the services performed or purchase the supplies in the open market since no valid bids are received after advertising as required,; and be it

FURTHER RESOLVED: That the City Administrator, or Designee, is authorized to negotiate, award and execute a construction contract without return to Council for the construction of Rainbow Recreation Center Renovation and Expansion Project No. 1000854 for an amount not to exceed of Eight Million Seven Hundred Thousand Dollars (\$8,700,000) contingent upon the availability of funding in accordance with the project plans and specifications; and be it

FURTHER RESOLVED: That the City Council hereby approves the plans and specifications, including any subsequent changes during construction consistent with the approved design, that will be reviewed and adopted by the Assistant Director of the Oakland Public Works Department for this project; and be it

FURTHER RESOLVED: That the City Administrator, or Designee, 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 Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation and be verified by the 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, NOV 28 2017

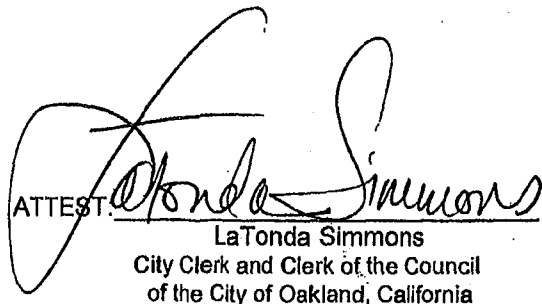
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, GIBSON MCELHANEY, and PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Legality

DRAFT

2010 FEB -8 PM 4:26

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO

1) INCREASE THE CONSTRUCTION CONTRACT AMOUNT FOR THE RAINBOW RECREATION CENTER RENOVATION AND EXPANSION PROJECT (PROJECT NO. 1000854) WITH JUV, INC., FROM EIGHT MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$8,700,000.00) TO TEN MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$10,150,000.00); AND

2) APPROVE AND REALLOCATE TOTAL ADDITIONAL FUNDS OF TWO MILLION ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$2,165,000.00) AGGREGATED FROM THE FOLLOWING EAST BAY REGIONAL PARKS DISTRICT OPEN SPACE WILDLIFE, SHORELINE AND PARKS MEASURE WW BOND SOURCES (FUND 2260): THE CITY STABLE PROJECT (NO. 1001014), ALLENDALE RECREATION CENTER PROJECT (NO. 1003376), CALDECOTT TRAIL PROJECT (NO. 1001412) AND CURT FLOOD FIELD PROJECT (NO PROJECT NUMBER ESTABLISHED) TO THE RAINBOW RECREATION CENTER RENOVATION AND EXPANSION PROJECT (NO. 1000854) FOR CONSTRUCTION AND PROJECT CONTINGENCY, AND SUBMIT THE PROJECT TO THE EAST BAY REGIONAL PARKS DISTRICT PER MEASURE WW BOND REQUIREMENT, OR CONSIDER AND APPROVE ALTERNATE FUNDING SOURCES, INCLUDING MEASURE KK

WHEREAS, the Rainbow Recreation Center was identified as a priority project in the FY11-13 Park Project Prioritization list approved by Council under Resolution No. 83725 C.M.S. in February 2012; and

WHEREAS, on May 17, 2011 the City Council approved Rainbow Recreation Center project as one of six projects to apply for Round 2 of the Proposition 84, the Clean Water, Parks and Coastal Protection Act competitive grant in Resolution No. 83367 C.M.S.; and

WHEREAS, in October 2013 the City was awarded and entered into an agreement with the State of California Department of Parks & Recreation receiving Proposition 84 grant funds for the project; and

WHEREAS, on March 1, 2016 the City Council approved Resolution No. 86028 C.M.S. allowing staff to apply for, accept and appropriate grant funds from the California Department of Housing and Community Development for the 2015 Housing Related Parks Program (HRPP) for the Rainbow Recreation Center; and

WHEREAS, on October 4, 2016 the City Council approved Rainbow Recreation Center as one of two projects to apply for the Proposition 40 California Youth Soccer and Recreation Development Program in Resolution No. 86407 C.M.S.; and

WHEREAS, in November 2016 the Measure KK General Obligation Bond was approved by the voters of Oakland to fund \$600 million of vital infrastructure improvements and anti-displacement and affordable housing projects; and

WHEREAS, in February 2017 the City entered into Agreement with the State of California Department of Housing and Community Development receiving grant funds for the project; and

WHEREAS, on June 19, 2017 the City Council approved Rainbow Recreation Center in the list of projects commencing with the first Measure KK bond issuance in Resolution No. 86779 C.M.S.; and

WHEREAS, on September 1, 2017 the City advertised the Rainbow Recreation Center Renovation & Expansion Project No. 1000854 for bid and 2 bids were received in the amounts of \$10,795,000 and \$11, 282,000 by the City Clerk on September 28, 2017; and

WHEREAS, in October 2017 the City is in the process of entering an Agreement with the State of California Department of Parks & Recreation receiving Youth Soccer grant funds for the project; and

WHEREAS, on November 28, 2017, the City Council approved Resolution No. 86975 C.M.S. to reject all bids, waive further competitive bidding, and authorized negotiation of a construction contract in the open market for an amount not-to-exceed \$8,700,000.00 to meet original project scope; and

WHEREAS, in December, 2017, staff conducted a limited bid inviting three interested firms to submit a bid for the project; and

WHEREAS, the submitted bids are above the approved construction contract limit; 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 Section 2.04.050.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, advertising and competitive re-bidding will delay the construction project which is

to be completed and opened to the public by December 31, 2018 before grant funds expire;

WHEREAS, 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

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 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 in order to meet the grant schedule and because of current construction market indications, a rebid of the project would not guarantee lower pricing or generate more interest in the project, and per Section 2.04.050.J that the City Administrator may proceed to hire or have the services performed or purchase the supplies in the open market since no valid bids are received after advertising as required; and be it

FURTHER RESOLVED: That the City Council approves and authorizes the City Administrator, or Designee, to award and execute a construction contract with JUV, Inc., a local business, without return to Council for the construction of Rainbow Recreation Center Renovation and Expansion Project No. 1000854 for an amount not to exceed ten million one hundred fifty thousand dollars (\$10,150,000.00) in accordance with the project plans and specifications; and be it

FURTHER RESOLVED: That the City Council hereby approves and reallocates additional funds of two million one hundred sixty-five thousand dollars (\$2,165,000.00) aggregated from the following East Bay Regional Parks District Open Space Wildlife, Shoreline and Parks Measure WW Bond (Fund 2260): The City Stable Project (no. 1001014), Allendale Recreation Center Project (No. 1003376), Caldecott Trail Project (No. 1001412) and Curt Flood Field project (No Project Number Established) to the Rainbow Recreation Center Renovation and Expansion Project (No. 1000854) for construction and project contingency, or considers and approves alternate funding sources, including Measure KK; and be it

FURTHER RESOLVED: That the project is submitted to the East Bay Regional Parks District for review per Measure WW Bond requirements; and be it

FURTHER RESOLVED: That the plans and specifications, including any subsequent changes during construction, consistent with the approved design, that will be reviewed and adopted by the Assistant Director of the Oakland Public Works Department for this project; and be it

FURTHER RESOLVED: That the City Administrator, or Designee, is authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

FURTHER RESOLVED: That JUV, Inc., complies 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 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, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, GIBSON MCELHANEY, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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