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OAKLAND

2019 AUG 29 AM 4:21

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Jason Mitchell  
Director, Public Works

**SUBJECT:** Ballfield Wiring and Lighting Project  
Construction Award

**DATE:** August 19, 2019

City Administrator Approval

Date:

8/29/19

## RECOMMENDATION

**Staff Recommends That City Council Adopt A 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 One Million Five Hundred Thousand Dollars (\$1,500,000) In The Open Market For The Construction Of The Ballfield Wiring And Lighting Capital Improvement Project (Project Number 1003447), In Accordance With Project Plans And Specifications.**

## EXECUTIVE SUMMARY

The City issued a Notice of Inviting Bids for the Ballfield Wiring and Lighting Project on June 14, 2019 with two bids received on July 11, 2019. Both bids have been deemed compliant with the City's local business enterprise program. However, both bids are non-responsive due to exceeding the available construction budget for the project.

Approval of this resolution will reject all bids 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 negotiate, award, and execute a construction contract on the open market in an amount not to exceed \$1,500,000.00. The contractor will be required to comply with all City programs such as Local and Small Local Business Enterprises requirements.

The project includes sport lighting improvements at four City-owned ballfields as shown in **Attachment A**: Curt Flood Field (Council District 4), Golden Gate Field (Council District 1), Tassafaronga Field (Council District 7) and (as an Additive Alternate) Lowell Park (Council District 3).

## BACKGROUND / LEGISLATIVE HISTORY

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. On May 30, 2017, staff recommended to City Council the Fiscal

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Year 2017-19 Capital Improvement Program (CIP), including projects proposed to be funded with Measure KK bond funds. On June 19th, the City Council approved the list of projects for bond funding with Resolution No. 86773 C.M.S. On August 1, 2017, the Measure KK, Series 2017A-1 General Obligation Bond (the "Bond") was funded in the amount of \$62.735 million, of which \$1,000,000 was awarded to the Ballfield Wiring Hazard Mitigation Project. These funds were appropriated in the FY 2017-19 budget.

The project was developed in partnership between Oakland Parks, Recreation and Youth Development (OPRYD) and Oakland Public Works (OPW). The scope of the initial project proposal request was to replace damaged wiring at four City-owned ballfields. In consultation with the client department, OPRYD, it became clear that the existing lighting system was outdated, inefficient and insufficient to meet the needs of park users. It was determined that in order to maximize the benefit of the investment, the scope would include sports lighting upgrades. Additional project funding was secured through Measure HH and Measure WW Bonds.

The Parks and Recreation Advisory Commission (PRAC) reviewed the Ballfield Wiring and Lighting Project on October 10, 2018 and unanimously endorsed it. The Planning Department approved a Conditional Use Permit for the Curt Flood Field Improvements (Case Number: PLN18348) and major zoning variances for the Golden Gate (Case Number: PLN18349), Lowell (Case Number: PLN18347) and Tassafaronga (Case Number: PLN18350) Field Improvements on December 19, 2018.

### **ANALYSIS AND POLICY ALTERNATIVES**

During the project design phase, it was understood that available funding may not be sufficient to implement all four fields. OPW worked with OPRYD to rank the fields in order of priority for implementation according to the level and type of use for sports play and greatest need of improvements. The field ranking is as follows (from highest to lowest priority): Curt Flood Field, Golden Gate Field, Tassafaronga Field, Lowell Field. Because the engineer's estimate for the four ballfield improvement projects exceeded the available budget for construction, the project was bid with the top three ranked fields in the base bid and the fourth field, Lowell, as an additive alternate.

The Ballfield Wiring and Lighting Project (No. 1003447) was advertised for bid on June 14, 2019. Notifications were distributed by several means:

- The City of Oakland iSupplier system which includes City-certified firms, registered General Contractors, plan rooms and builder's exchange, totaling over 300 notices
- Printed legal notice in the Oakland Tribune, Daily Pacific Builder, El Mundo, Oakland Post, The Korea Times and the World Journal publications
- Posting on CIPlist.com, which distributes to registered plan rooms and builders' exchanges

On July 11, 2019, the City Clerk received two bids for this project from general contractors for the Ballfield Wiring and Lighting project as shown on **Attachment B**: Bid Summary and as shown as follows:

Project Bids Received:	
<u>Company</u>	<u>Bid Amount</u>
Bay Construction	\$1,904,894.00
Ray's Electric	\$1,957,000.00
<b>Engineer's Estimate</b>	<b>\$1,118,111.00</b>

The Department of Contracts and Compliance deemed both bidders as compliant with the City's local business enterprise program as shown on **Attachment C**: Compliance Analysis, updated August 12, 2019. Both bids submitted greatly exceed the City's estimate and available construction budget, and are therefore non-responsive. The lowest bid exceeded the engineer's estimate by 70%, or \$786,783, and the City has insufficient funds to complete the project for the lowest bid amount.

Pursuant to Oakland Municipal Code (OMC) Section 2.04.050, which requires advertising and competitive bidding for contracts that exceed \$50,000; section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements upon a finding and determination by the City Council that it is in the best interests of the City to do so. In addition, OMC 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. Rebidding the project would delay the construction start by at least six months and may result in higher bids due to current high escalation factor in the construction market (cost index tracked by Turner Construction indicated a 5.51% increase in the last twelve months). Rebidding would likely not result in more competitive bids.

Thus, in accordance with OMC 2.04.050.I.5, staff recommends that it is in the City's best interest to waive further advertising and competitive bidding. The City will negotiate to secure a contract in the open market that is within the project budget and that meets the City's contract compliance and program requirements. In addition, value engineering and negotiating with a contractor will be required to determine reasonable scope modifications to complete projects within the available budget.

**FISCAL IMPACT**

Source of Available Funding for Construction:

<b>FUNDING SOURCE</b>	<b>AMOUNT</b>
Measure KK Bond (5330); Capital Projects Organization (#92270); Construction Contract Account (57112); Project (1003447); Award (23253); Program (IN06)	\$650,000.00
Measure HH Bond (1030); Capital Projects Organization (#92270); Construction Contract Account (57112); Project (1003447); Award (23584); Program (IN06)	\$750,000
Measure WW Bond (2260); Capital Projects Organization (#92270); Construction Contract Account (57112); Project (1003447); Award (20550); Program (IN06)	\$100,000
<b>TOTAL FUNDS</b>	<b>\$1,500,000</b>

**PUBLIC OUTREACH / INTEREST**

The Project was endorsed by Parks and Recreation Advisory Commission (PRAC) on October 10, 2018 and approved by the Planning Commission on December 19, 2018. The project was noticed to adjacent properties through the City's Planning and Zoning Approval process for a Conditional Use Permit and Major Zoning Variance.

OPRYD staff has regularly communicated with the community, sports program users and immediate neighbors about the project.

**COORDINATION**

The work to be done under this contract has been coordinated with OPRYD, Contract and Compliance Department, and appropriate divisions within OPW.

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

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**SUSTAINABLE OPPORTUNITIES**

***Economic:*** The capital project improves existing City Park properties and will contribute to the local economy through the construction contract. The contractor will comply with Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation to be reviewed by the Social Equity Division of the Department of Contracting and Purchasing prior to executing the contract. The construction services provided by local firms will result in dollars being spent locally.

***Environmental:*** The ballfield wiring and lighting improvements will improve the physical condition of four existing parks. The contractor is required to comply with the City's Waste Recycling and Re-use Plan (WRRP).


***Social Equity:*** Improvements to the existing sports fields will improve and expand opportunities for the community and all program users of City's recreational facilities. The project is part of continued park and recreation facilities capital program to update aging facilities and improve City assets to provide equitable access for youth and people of all ages.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that City Council adopt a 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 one million five hundred thousand dollars (\$1,500,000) in the open market for the construction of the Ballfield Wiring And Lighting Capital Improvement Project (project number 1003447), in accordance with project plans and specifications.

For questions regarding this report, please contact Christine Reed, Capital Improvement Project (CIP) Coordinator at (510) 238-6540.

Respectfully submitted,

  
JASON MITCHELL  
Director, Oakland Public Works

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

Matthew Lee, P.E., Division Manager  
Project Delivery Division

Prepared by:  
Christine Reed, RLA, CIP Coordinator  
Project Delivery Division

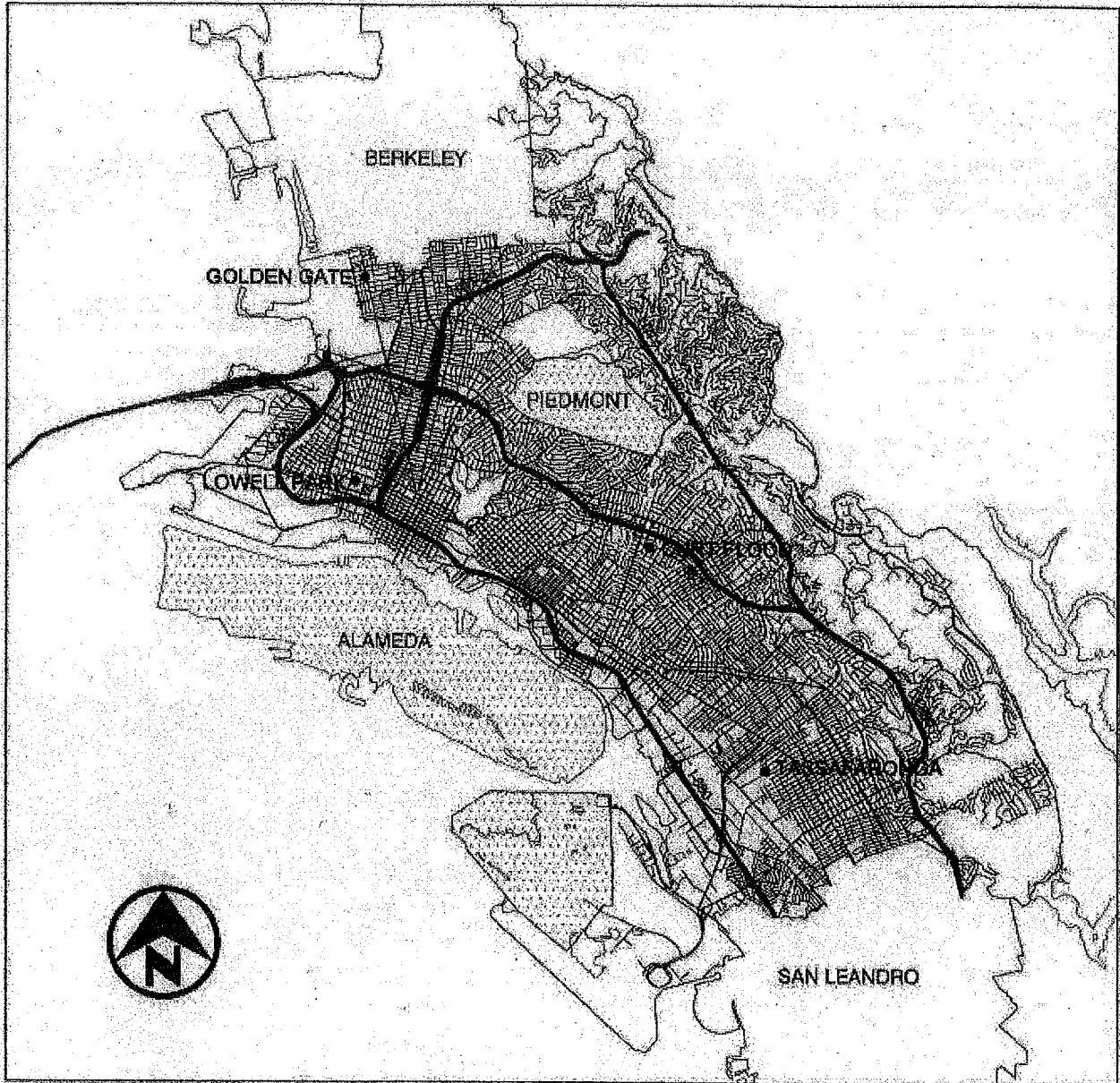
Attachments (3):

A: *Project Location Map*

B: *Bid Summary by OPW Contract Services updated August 12, 2019*

C: *Compliance Analysis by Contracts & Compliance Division dated August 12, 2019*

Attachment A – Project Location Map



Attachment B - Bid Summary

**CITY OF OAKLAND BID SUMMARY**  
**Public Works Department - Contract Services**

A) PROJECT NAME: Ballfield Wiring and Lighting Project  
 B) PROJECT NO: 1003447  
 C) BID OPENING DATE: July 11, 2019  
 D) BASIS OF AWARD (BOA): Base Bid  
 E) ENGINEER'S ESTIMATE OF BOA: \$1,118,111.00  
 F) APPARENT LOW BIDDER PER BOA: Mark Lee & Yong Kay, Inc dba Bay Construction  
 G) PROJECT MANAGER: Christine Reed  
 H) COMPLIANCE OFFICER: Vivian Inman  
 I) ISSUED TO COMPLIANCE, PROJECT MANAGER AND ALL PRIME BIDDERS: July 12, 2019  
 J) COMMENTS: 1) The apparent low bidder is not necessarily the lowest responsive, responsible bidder. The Dept. of Contract Compliance must evaluate all bids for mandatory local business participation and any bid discounts.

Mandatory Bid Items	Mark Lee & Yong Kay Inc dba Bay Construction Co.	Gruendl Inc dba Ray's Electric
Contractor's Bid Form and Bid Schedule	Y	Y
Correct Bidder License Type and Active per CSLB?	Y	Y
Subcontractor Licenses Listed and Active per CSLB?	Y	Y
Prime & Subcontractors Registered with DIR?	Y	Y
Addenda acknowledgement	Y	Y
Bid Security Clause	Y	Y
Contractor Signature	Y	Y
Schedule O - Campaign Contribution Limits	Y	Y
Schedule R - Subcontractor, Supplier, Trucker Listing	Y	Y
If Trucking is required, was one listed?	No. To be self-performed	No. To be self-performed
Bid Bond	Y	Y

Engineer's Estimate			Mark Lee & Yong Kay Inc dba Bay Construction Co.	Gruendl Inc dba Ray's Electric
Item Number	Item Description	Total Amount	Total Amount	Total Amount
1	Lump Sum Base Bid	1,118,111.00	1,904,894.00	1,957,000.00

**Bid Alternate 1:**

2	Lowell Field Improvements	Lump Sum	578,192.00	835,325.00	758,000.00
Total of Bid Alternate 1			578,192.00	835,325.00	758,000.00
<b>TOTAL BID (BOA)</b>			1,904,894.00	1,957,000.00	
Specialty Items, if any			1,346,194.00	1,302,000.00	
Specialty Items, Bid Alternate 1, if any			662,025.00	550,000.00	
% Over / Under Engineer's Estimate			70%	75%	





## *INTER OFFICE MEMORANDUM*

**TO:** Christine Reed, Capital Improvement  
Project Coordinator

**FROM:** Deborah Barnes, Director,  
Contracts and Compliance

**THROUGH:** Shelley Darensburg, Senior  
Contract Compliance Officer

**PREPARED BY:** Vivian Inman,  
Contract Compliance Officer

**SUBJECT:** Compliance Analysis  
Ballfield Wiring and Lighting Project

**DATE:** August 12, 2019 (Revised)

At the request of the Public Works Agency, the designated Compliance Officer conducted a compliance analysis of **two (2) bids** submitted to the City in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 50% Local and Small Local Business Enterprise (L/SLBE) participation requirement, a preliminary review for compliance with the Equal Benefits Ordinance (EBO), and a brief overview of the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program on the bidder's most recently completed City of Oakland project.

The above referenced project contains specialty work. The Standard Specifications for Public Works Construction, "Greenbook", page 10 section 2-3.2 (Attachment A) describes how specialty work may be addressed. Based upon the Greenbook and per the specifications, the CIPP specialty items have been excluded from the contractor's bid price for purposes of determining compliance with the minimum 50% L/SLBE requirement.

The spreadsheet on page 2 is a revised format specifically for this analysis. The spreadsheet shows: Column A - Original Bid Amount; Column B - Specialty Dollar Amount submitted by the contractor; Column C - Non-Specialty Bid Amount (difference between column A and B); Column D - Total Credited Participation; Column E - Earned Bid Discounts as a result of the total credited participation and Column F - Adjusted Bid Amount calculated by applying the earned bid discount to the Original Bid Amount (column A).

Responsive		Proposed Participation							Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	Specialty Dollar Amount	Non Specialty Dollar Amount	Total LBE/SLBE/VSLBE/LPG	LBE	SLBE	VSLBE/LPG	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
	<i>A</i>	<i>B</i>	<i>C</i>						<i>D</i>	<i>E</i>	<i>F</i>	
Bay Construction	\$1,914,894	\$54,839	\$664,894	100%	0%	100%	0%	NA	100%	5%	\$1,881,649.30	Y
Ray's Electric	\$1,967,000	\$58,377	\$1,328,296	50%	0%	50%	0%	NA	50%	2%	\$1,930,434.08	Y

**Comments:** As noted above, all firms met or exceeded the minimum 50% Local/Small Local Business Enterprise participation requirement. All firms are EBO compliant.

**For Informational Purposes**

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

**Contractor Name:** Bay Construction  
**Project Name:** Martin Luther King, Jr. Branch Library Renovations  
**Project No.** C275120

**50% Local Employment Program (LEP)**

Was the 50% LEP Goal achieved?	YES	If no, shortfall hours?	N/A
Were all shortfalls satisfied?	YES	If no, penalty amount	N/A

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	YES	If no, shortfall hours?	N/A
Were shortfalls satisfied?	YES	If no, penalty amount	N/A

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E)# resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

Total Project Hours	50% Local Employment Program (LEP)							15% Apprenticeship Program				
	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Apprenticeship	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
		Goal	Hours	Goal	Hours					Goal	Hours	
A	B	C		D		E	F	G	H	I		J
1,166	NA	50%	583	50%	583	NA	0	100%	0	15%	174	0

**Comments:** Rosas Brothers Construction was compliant with the Local Employment Program's 50% resident hiring goal and was compliant with the 15% Oakland Apprenticeship Program goal.

Should you have any questions, you may contact Vivian Inman, Contract Compliance Officer at (510) 238-6261.

**CONTRACTS AND COMPLIANCE UNIT**



**Contract Compliance Division**

**PROJECT EVALUATION FORM**

**PROJECT NO.:** 1003447

**PROJECT NAME:** Ballfield Wiring and Lighting Project

**CONTRACTOR:** Bay Construction

<b><u>Engineer's Estimate:</u></b>	<b><u>Contractors' Original Bid</u></b>	<b><u>Specialty Dollar Amount</u></b>	<b><u>Over/Under Engineer's</u></b>
\$1,118,111.00	<b><u>Amount</u></b>	\$54,839.00	<b><u>Estimate</u></b>
	\$1,914,894.00		-\$796,783.00
<b><u>Discounted Bid Amount:</u></b>	<b><u>Amount of Bid Discount</u></b>	<b><u>Non-Specialty Bid Amt.</u></b>	<b><u>Discount Points:</u></b>
\$1,881,649.30	\$33,244.70	\$664,894.00	5%

- 1. Did the 50% requirements apply? **YES**
  
- 2. Did the contractor meet the 50% requirement? **YES**
  - b) % of LBE participation **0%**
  - c) % of SLBE participation **100%**
  - d) % of VSLBE/LPG Participation **0%**
  
- 3. Did the contractor meet the L/SLBE Trucking requirement? **NA**
  - a) Total L/SLBE trucking participation **0%**
  
- 4. Did the contractor receive bid discounts? **YES**

(If yes, list the percentage received) **5%**
  
- 5. Additional Comments.

**Bid items 4 & 5 are considered specialty work and was excluded from the total bid price for the purposes of determining compliance with the 50% L/SLBE requirement.**

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

**8/12/2019**  
Date

**Reviewing**  
**Officer:**

*Vivian Ahmad*

**Date:**

**8/12/2019**

**Approved By:**

*Deborah Baran*

**Date:**

**8/12/2019**

# BIDDER 1

Project Name: **Ballfield Wiring and Lighting Project**

Project Number		Engineers Est:					Under/Over Engineers Estimate:					For Tracking Only		
1003447		\$1,118,111.00					-\$796,783.00							
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	**VSLBE/LPG	Total	L/SLBE	Total	*Non-Specialty Bid Amount	TOTAL Original Bid Amount	Ethn.	MBE	WBE
							LBE/SLBE	Trucking	Trucking	Dollars				
PRIME Electrical	Bay Construction Columbia Electric	Oakland Leandro	CB UB		664,894		664,894			664,894	664,894	C		
										1,250,000	C			
<b>Project Totals</b>				\$0	\$664,894	\$0.00	\$664,894	\$0	\$0	\$664,894	\$1,914,894		\$0	\$0
				0%	100%	0%	100%	0%	0%	100%	100%		0%	0%
<b>Requirements:</b> The 50% requirement is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirement. A VSLBE and LPG's participation is double counted toward meeting the				LBE 25%	SLBE 25%	VSLBE/LPG	TOTAL LBE/SLBE/VSLBE/LPG	50% LBE/SLBE TRUCKING				<b>Ethnici</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
<b>Legend</b>				LBE = Local Business Enterprise		SLBE = Small Local Business Enterprise		VSLBE = Very Small Local Business Enterprise		LPG = Locally Produced Goods		Total LBE/SLBE = All Certified Local and Small Local Businesses		
				NPLBE = NonProfit Local Business Enterprise		NPSLBE = NonProfit Small Local Business Enterprise		UB = Uncertified Business		CB = Certified Business		MBE = Minority Business Enterprise		
								WBE = Women Business Enterprise						

**CONTRACTS AND COMPLIANCE UNIT**



**Contract Compliance Division**

**PROJECT EVALUATION FORM**

**PROJECT NO.:** 1003447

**PROJECT NAME:** Ballfield Wiring and Lighting Project

**CONTRACTOR:** Ray's Electric

<b><u>Engineer's Estimate:</u></b>	<b><u>Contractors' Original Bid Amount</u></b>	<b><u>Specialty Dollar Amount</u></b>	<b><u>Over/Under Engineer's Estimate</u></b>
\$1,118,111.00	\$1,957,000.00	\$58,377.00	-\$838,889.00
<b><u>Discounted Bid Amount:</u></b>	<b><u>Amount of Bid Discount</u></b>	<b><u>Non-Specialty Bid Amt.</u></b>	<b><u>Discount Points:</u></b>
\$1,930,434.08	\$26,565.92	\$1,328,296.00	2%

- 1. Did the 50% requirements apply? **YES**
  
- 2. Did the contractor meet the 50% requirement? **YES**
  - b) % of LBE participation **0%**
  - c) % of SLBE participation **50%**
  - d) % of VSLBE/LPG Participation **0%**
  
- 3. Did the contractor meet the L/SLBE Trucking requirement? **YES**
  - a) Total L/SLBE trucking participation **100%**
  
- 4. Did the contractor receive bid discounts? **YES**  
(If yes, list the percentage received) **5.00%**
  
- 5. Additional Comments.

**Bid Items 4 & 5 are considered specialty work and was excluded from the total bid price for the purposes of determining compliance with the 50% L/SLBE requirement.**

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

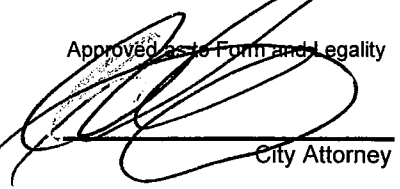
**Reviewing Officer:** *Wahid Jinnah* **Date:** 8/12/2019  
**Approved By:** *Heber of Barker* **Date:** 8/12/2019

## LBE/SLBE PARTICIPATION

### BIDDER 2

Project Name: Ballfield Wiring and Lighting Project

Project No.: 1003447		Engineers Est: \$1,118,111.00				Under/Over Engineers Estimate: -\$838,889.00					For Tracking Only			
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	**VSLBE/LPG	Total	L/SLBE	Total	*Non-Specialty	TOTAL Original	Ethn.	MBE	WBE
							LBE/SLBE	Trucking	Trucking	Bid Amount	Bid Amount			
PRIME	Ray's Electric	Oakland	CB		655,000		655,000			655,000	1,226,204	C		
Tree Pruning	DeKay Demolition	Oakland	CB		2,800		2,800			2,800	2,800	C		
Boring	Precision Boring	San Jose	UB							38,000	38,000	C		
Pole Lifting	Biggee Crane	San Leandro	UB							18,000	18,000	C		
Drilling	West Coast Drilling	Pinole	UB							16,000	16,000	C		
HDPE Pipe	Bailey Fence	Brisbane	UB							14,487	14,487	C		
Manhole	Musco Lighting	Livermore	UB							566,009	566,009	C		
Landscape	Marina Landscape	Orange	UB							18,000	18,000	O		
Supply of Electrical	Gexpro Supply	Union City	UB								57,500	C		
<b>Project Totals</b>				\$0	\$657,800	\$0	\$657,800	\$0	\$0	\$1,328,296	\$1,957,000		\$0.00	\$0.00
				0%	50%	0%	50%	100%	100%	100%	100%		0%	0%
<b>Requirements:</b> The 50% requirement is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirement. A VSLBE and LPG's participation is double counted toward meeting the requirement.				LBE 25%	SLBE 25%	VSLBE/LPG	TOTAL LBE/SLBE/ VSLBE/LPG	50% LBE/SLBE TRUCKING				<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
<b>Legend</b>				LBE = Local Business Enterprise SLBE = Small Local Business Enterprise VSLBE = Very Small Local Business Enterprise LPG = Locally Produced Goods Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise										



City Attorney

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OAKLAND

2019 AUG 29 AM 4:21

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**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 ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) IN THE OPEN MARKET FOR THE CONSTRUCTION OF THE BALLFIELD WIRING AND LIGHTING CAPITAL IMPROVEMENT PROJECT (PROJECT NUMBER 1003447), IN ACCORDANCE WITH PROJECT PLANS AND SPECIFICATIONS.**

**WHEREAS**, on June 17, 2014 the City Council approved reallocation of one hundred thousand dollars (\$100,000) from the East Bay Regional Park District Measure WW Bond funds to Curt Flood Field in Resolution No. 85055 C.M.S.; and

**WHEREAS**, the Ballfield Wiring and Hazard Mitigation Project was identified as a priority project in the Fiscal Year (FY) 17-19 Capital Budget and funded by the first series of Measure KK – Affordable Housing and Infrastructure Bond in Fall 2017 in the amount of \$1,000,000 for four fields – Golden Gate Sports Field, Curt Flood Field, Tassafaronga Field and Lowell Field;

**WHEREAS**, on June 19, 2018, the City Council adopted the FY 2018-19 Midcycle Budget Amendment and appropriated \$4,403,500 from the Sugar Sweetened Beverage Tax Measure HH fund for an one-time investments to playgrounds, tot lots, City pools, and sports facilities to the most impacted neighborhoods. Staff submitted recommendations of projects to the Community Advisory Board in Oct. 2018 and allocated \$1,100,000 to Curt Flood Field Lighting improvements; and

**WHEREAS**, on June 14, 2019 the City advertised the Ballfield Wiring and Lighting Project No. 1003447 for bid and 2 bids were received by the City Clerk on July 11, 2019; and

**WHEREAS**, both bids were significantly over the current construction budget; and



**WHEREAS**, advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, and may not result in bids responsive to the project construction budget; and

**WHEREAS**, value engineering and negotiating with a contractor will be required to determine reasonable scope modifications to complete projects within the available budget; 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**, project funds are appropriated and allocated from Measure KK - Affordable Housing and Infrastructure Bond Fund (Award 23253) and Measure HH Suagr Sweetened Beverage Tax Fund (Award 23584) and Measure WW Regional Open Space, Wildlife, Shoreline and Parks Bond Local Grant Program (Award 20550); and

**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 because further advertising and competitive re-bidding will delay the construction project, increase construction costs due to escalation, and may not result in bids responsive to the project construction budget and OMC section 2.04.050.J authorizes the City Administrator to proceed to hire or have the services performed or purchase the supplies in the open market when no valid bids are received after advertising as required; and be it

**FURTHER RESOLVED:** That staff will negotiate the scope of work in order to secure a contract to complete projects within the available budget; and be it

**FURTHER RESOLVED:** That the City Administrator or Designee, is authorized to negotiate and execute a construction contract without return to Council for the construction of the Ballfield Wiring and Lighting Project No. 1003447 for an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) in accordance with the final negotiated 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, 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 Department; 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 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 - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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