


Farrah Hussein (Apr 29, 2026 16:04:47 PDT)
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING AND AUTHORIZING THE CITY ADMINISTRATOR TO INCREASE THE CONSTRUCTION CONTRACT CHANGE ORDER AMOUNT FOR THE EAST OAKLAND ARTS CENTER PROJECT (PROJECT NO. 1004851) WITH CWS CONSTRUCTION GROUP, INC., FROM TWENTY-FIVE PERCENT (25%) TO FIFTY-SIX PERCENT (56%) OF THE ORIGINAL CONTRACT AMOUNT OF ONE MILLION SEVEN HUNDRED EIGHTY-FIVE THOUSAND DOLLARS (\$1,785,000.00) FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED TWO MILLION SEVEN HUNDRED EIGHTY-FOUR THOUSAND SIX HUNDRED DOLLARS (\$2,784,600.00)

WHEREAS, the East Oakland Arts Center (EOAC), formerly known as the Digital Arts and Culinary Academy (DACA), was built in the 1940's and is located at 5818 International Boulevard within District 6; and

WHEREAS, the existing facility needed building system upgrades to expand cultural arts programming serving the community, having served the East Oakland community for over 15 years with afterschool and summer programs focusing on Digital Audio Production, Digital Video Production, Culinary Arts, and Urban Agriculture; and

WHEREAS, the Project was prioritized and adopted through the Capital Improvement Program Budget process during Fiscal Year (FY) 2019-2021 under Resolution No. 87759 C.M.S. in June 2019; and

WHEREAS, in November 2016, Oakland voters approved Measure KK, authorizing \$600 million in general obligation bonds for infrastructure improvements, including capital improvements to City facilities, and the Project is funded in part through Measure KK bond proceeds; and

WHEREAS, on March 21, 2023, City Council passed Resolution No. 89625 C.M.S. granting authorization for the City Administrator to reject all bids as non-responsive, waiving further advertising and competitive bidding, and allowing negotiations in the open market for a qualified, responsive, and responsible company for an amount not to exceed \$1,836,000.00; and

WHEREAS, negotiations were conducted on the open market with the four firms that submitted bids on September 8, 2022, and CWS Construction Group, Inc. (CWS) was selected as the lowest, most responsive, and responsible bidder; and

WHEREAS, in August 2023, the City executed a construction services agreement with CWS for the East Oakland Arts Center Project in an amount of \$1,785,000.00 which allowed for up to a twenty-five percent (25%) change order limit of \$446,250.00 as specified by the approved Standard Specifications; and

WHEREAS, construction work commenced in November 2023 with improvements including removal of asbestos and lead present in floor and ceiling tiles and paints, structural and electrical upgrades, new classrooms, a gender-neutral restroom, added storage, new Heating, Ventilation and Air Conditioning (HVAC) equipment and sprinkler systems, new signage, and building façade renovations; and

WHEREAS, by June 2024, base contract scope was substantially complete except for electrical utility equipment procurement and new service connections, and work was paused temporarily while the project waited for new electrical switchgear to complete fabrication and arrive on site; and

WHEREAS, multiple factors and conditions that have arisen resulting in the utilization of all the existing change order capacity to address miscellaneous unforeseen conditions, client-requested upgrades to EOAC, schedule delays due to long lead times of materials and added site security; and

WHEREAS, during this construction pause in late 2024, vandals broke into the facility and removed new HVAC components, kitchen equipment and electrical conduit, and damaged interior partitions and ceilings; and

WHEREAS, the proposed amendment to increase CWS's contract change order limit is needed and in the City's best interest to replace stolen HVAC and kitchen equipment, repair damaged interior finishes, partitions, and ceilings, replace removed electrical conduit, fund contract time extension costs, and provide enhanced security measures during the remaining construction period to prevent further incidents; and

WHEREAS, CWS has no contract capacity left in their current contract to perform the added vandalism repair scope required to complete the project; and

WHEREAS, the additional work required to repair vandalism damage and address unforeseen site and building conditions is integrally related to the work already performed under the existing contract and requires compatibility with installed structural, mechanical, and electrical systems; and

WHEREAS, the additional work required to repair vandalism damage, replace stolen building components, address unforeseen site and building conditions, maintain interim project security, and complete final construction activities is supplemental to and within the general scope of the original East Oakland Arts Center construction contract and is necessary to deliver the originally approved public improvement; and

WHEREAS, soliciting bids for a new contractor to complete the remaining work would require significant project delay, duplication of mobilization and administrative costs, and transfer of liability and warranty obligations associated with previously installed work, and could expose the City to additional claims or disputes; and

WHEREAS, it is in the City's best interest to retain CWS as the contractor of record to complete construction as transfer of liability and warranty to a new contractor would require time and additional money, and it is not guaranteed that the City could find a willing team to assume responsibility for another firm's materials and installation; and

WHEREAS, funding for the additional construction services for the Project (No. 1004851) is available from the transfer of Capital Improvement Impact Fees into the Capital Improvements Impact Fee Fund (2421); Capital Projects Organization (92270); EOAC Project (1004851); Program (IN06); and

WHEREAS, the Project advances multiple City Citywide priorities and aligns with the 2030 Equitable Climate Action Plan by advancing sustainability, resilience, and equitable infrastructure investment across the City's building portfolio, and the Economic Development Action Plan by developing Economic Growth and Work Force opportunities in the expressive and creative arts; and

WHEREAS, The Project will provide 3,832 square feet of safe, comfortable indoor educational space for an ethnically and racially diverse population, as well as a gender-neutral restroom. This center is within an area of Oakland where racially diverse and low-income populations have historically been underserved. The Project is part of the continued capital program efforts to update aging infrastructure and improve City assets to provide equitable access for all community members; and

WHEREAS, Oakland Municipal Code (OMC) Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirement upon a finding and determination by the City Council that it is in the best interest of the City to do so; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary construction work, and 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 pursuant to OMC Section 2.04.050.I.5, the City Council finds that it is in the best interests of the City to waive advertising and competitive bidding requirements to increase the construction contract change order limit with CWS for the Project; and be it

FURTHER RESOLVED: That the City Council finds and determines the additional construction services authorized by this Resolution are supplemental and completion-related work directly connected to the originally approved East Oakland Arts Center public works improvement, are within the general scope, purpose, and intent of the existing contract with CWS Construction

Group, Inc., and are most economically and practically performed through amendment of the existing contract in order to avoid delay, duplication of cost, and coordination conflicts; and be it

FURTHER RESOLVED: That the proposed amendment to increase CWS's contract change order limit is needed and is in the City's best interest to replace stolen HVAC and kitchen equipment, repair damaged interior finishes, partitions, and ceilings, replace electrical conduit, fund contract time extension costs, and provide enhanced security measures during the remaining construction period to prevent further incidents; and be it

FURTHER RESOLVED: That the City Council finds that it is in the best interests of the City to waive advertising and competitive bidding requirements pursuant to OMC Section 2.04.050.I.5 and consistent with the competitive bidding requirements of the Oakland City Charter because continuation of the work with the existing contractor is the most economical and practical method to complete the Project; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to increase the construction contract change order limit from twenty-five percent (25%) to fifty-six percent (56%) of the original contract amount of one million seven hundred eighty-five thousand dollars (\$1,785,000.00), for a revised total contract amount not-to-exceed two million seven hundred eighty-four thousand six hundred dollars (\$2,784,600.00); and be it

FURTHER RESOLVED: There is no minimum commitment to this contract, funds will not be committed beforehand unless funding is identified and be it

FURTHER RESOLVED: That CWS shall comply with all City contracting and compliance program requirements that apply to this agreement, including the Local and Small Local Business Enterprise Program; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to approve any subsequent amendments, modifications, or extensions of said agreement consistent with the purpose of this Resolution, excepting those related to increasing the amount of the contract above the amounts authorized herein; 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 - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California