

RESOLUTION NO. 19-_____

Resolution Of The City Council Of The City Of Emeryville Determining that the Bid Protest Filed By Bay Construction, Is Without Merit, Authorizing The City Manager To Execute A Contract With Marina Landscape Inc. In An Amount Not To Exceed \$567,849 For Construction Of The 40th Street/San Pablo Avenue Median Rehabilitation Project, Project No. EPW 105-18, CIP No. 16475033, And Appropriating In Fiscal Year 2018/2019 Amounts Of \$200,000 From The General Capital Fund (Fund 475) From The 2019/2020 Project Budget

WHEREAS, on May 5, 2015, the City Council adopted Resolution No. 15-39 authorizing the City and EAH Housing (EAH) to jointly apply for Affordable Housing and Sustainable Communities (AHSC) funding which included \$100,000 for median improvements at 40th Street and San Pablo Avenue; and

WHEREAS, Capital Improvement Program adopted by the City Council in June 2016 includes funding for the 40th Street/San Pablo Avenue Median Rehabilitation Project (CIP No. 16475033) ("Project") and as described this Project proposes to replace the existing trees and landscaping on the 40th Street medians and to replace the existing groundcover and other understory plantings without impacting the existing trees on the San Pablo Avenue medians; and

WHEREAS, on July 10, 2018, the City Council adopted Resolution 18-99 authorizing the City Manager to enter into a Professional Services Agreement with Callander and Associates in the amount of \$66,565 for design services for the Project; and

WHEREAS, on April 16, 2019, City Council authorized the City Engineer to advertise the Project (also referred to as the 40th Street/San Pablo Avenue Median Rehabilitation Project, Project No. EPW 105-18) for public bidding, and which will rehabilitate five median islands on 40th Street and four median islands on San Pablo Avenue; and

WHEREAS, the City received four (4) responsive bids on May 28, 2019, with Marina Landscaping Inc. submitted the lowest bid in the amount of \$567,849; and

WHEREAS, on May 30, 2019, Public Works Department staff received a bid protest from Bay Construction, the third lowest bidder, contending that the two lowest bidders were not qualified to perform the directional boring work for the Project because they did not identify any sub-contractors who would perform the work ("Bid Protest"); and

WHEREAS, as indicated in the attached correspondence between Bay Construction and Public Works Department staff (Exhibits B and C), the basis of the protest was founded in the assertion that irrigation lines must be installed by directional bore method and that Marina Landscape Inc. did not list a boring subcontractor to perform the directional boring; and

WHEREAS, the newly adopted Capital Improvement Program identifies \$900,000 as appropriated to the budget for this Project (Project No. 16475033) with \$300,000 in General Capital Funds (Fund 475) becoming available in fiscal year 2019/2020; and

WHEREAS, the full contract amount must be appropriated at the time of contract award so it is necessary at this time to make the \$200,000 in 2019/2020 General Capital funds available in fiscal year 2018/2019; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that the finds that the Bid Protest is without merit because the lowest responsible bidder can perform the directional boring work with its Class A license, and the plans provide that alternative means and methods besides directional boring may be used; and be it further

RESOLVED, by the City Council of the City of Emeryville that City Manager is hereby authorized to execute into a contract with Marina Landscape Inc. in an amount not to exceed \$567,849 for construction of the 40th Street/San Pablo Avenue Median Rehabilitation Project, Project No. EPW 105-18, CIP No. 16475033 (Project); and be it further

RESOLVED, the City Council of the City of Emeryville hereby appropriates in fiscal year 2018/2019 amounts of \$200,000 from the General Capital Fund (Fund 475) from the 2019/2020 Project Budget.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 18, 2019, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY