

## RESOLUTION 2017-###

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO 1) WAIVING MINOR IRREGULARITIES AND AWARDING THE ANNUAL ADA SIDEWALK PROJECT (ADA-SWK) TO THE LOWEST RESPONSIBLE BIDDER, MALACHI PAVING AND GRADING, INC.; AND (2) AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT IN THE AMOUNT OF \$93,875 WITH MALACHI PAVING AND GRADING, INC., WITH APPROXIMATELY 7% CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$100,000**

WHEREAS, the Annual ADA Sidewalk Project (the "Project") is in the approved capital projects budget for the City of San Pablo (the "City");

WHEREAS, the plans, specifications and working details of the Project were approved for bidding by the City's Public Works Department;

WHEREAS, the project is categorically exempt under the California Environmental Quality Act, Section 15302 of the CEQA Regulations, Replacement or Reconstruction;

WHEREAS, a notice of exemption will be filled with the County Clerk before construction;

WHEREAS, the City solicited public bids for work in conformance with the requirements of State Law and City ordinances, and the Purchasing Officer opened the bids on June 5, 2017;

WHEREAS, the lowest bidder Bay Malachi Paving and Grading, Inc. did not include the required signed non-collusion declaration, but has since submitted it, which is determined to be a minor irregularity because waiving this irregularity does not create an unfair process as Malachi would not have been allowed to withdraw its bid without forfeiting its bid bond and the irregularity did not affect other components of bid responsiveness: the amount of the bid, favoritism, or the ability to make bid comparisons;

WHEREAS, there also appeared to be some issues regarding the downloading of plans from BPXpress, but staff likewise finds this to be a minor irregularity as the bidders did have the plans and submitted bids and thus recommends that both irregularities in the bidding be waived;

WHEREAS, the lowest responsive and responsible bid was submitted by Malachi Paving and Grading, Inc., in the amount of \$93,875, and the City desires an approximate 7% contingency for the Project;

WHEREAS, the City desires to appropriate \$100,000 from the General Fund Designated Reserves Future Capital Projects ADA compliance & Improvement Projects (City-Wide); and

WHEREAS, the total project budget will be \$100,000 and any funding leftover will be used to extend the project boundaries.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein.

Section 2. Adoption of Plans. The City Council hereby adopts the Plans, Specifications and working details for The Annual ADA Sidewalk Project, Project ADA-SWK.

Section 3. Waive Irregularity. The City Council hereby waives the minor irregularities of the low bid of Malachi Paving & Grading not including the Non-Collusion Declaration and not being listed on the "Plan Holders" list of BPXpress.

Section 4. Award of Contract. The City Council hereby awards the contract for the Annual ADA Sidewalk Project, Project ADA-SWK to Malachi Paving and Grading, Inc. and authorizes the City Manager to execute an agreement in the amount of \$93,875 with Malachi Paving and Grading, Inc. and to make such changes or additions thereto with the concurrence of the City Attorney as are necessary or appropriate and which do not substantially alter the rights and obligations of the City thereunder. The City Manager is further authorized to execute such other documents and take such other actions as are necessary to carry out and implement the obligations of the City.

Section 5. Appropriation of Funds. The City Council hereby authorizes the appropriation of \$100,000 from the General Fund Designated Reserves Future Capital Projects ADA Compliance & Improvement Projects.

\* \* \* \* \*

ADOPTED this 19<sup>th</sup> day of June, 2017, by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

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Ted J. Denney, City Clerk

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Cecilia Valdez, Mayor