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Jonathan Jan
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 30046 C.M.S.

RESOLUTION APPROPRIATING \$6,094,763.00 IN CITY FUNDS FOR EMERGENCY RESPONSE AND PERMANENT STORM MITIGATION MEASURES AND AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT FUNDS FROM STATE AND FEDERAL AGENCIES FOR EMERGENCY AND PERMANENT STORM MITIGATION MEASURES AND SUPPORT ACTIVITIES FOR THE PERIODS FROM DECEMBER 17, 2005 TO JANUARY 3, 2006 AND FROM MARCH 29, 2006 TO APRIL 16, 2006 WITH FEMA AND FHWA REIMBURSEMENT FOR COSTS DEEMED ELIGIBLE, WAIVING THE CITY'S COMPETITIVE BID AND RFP/RFQ PROCESSES AND AUTHORIZING THE CITY ADMINISTRATOR TO AWARD EMERGENCY CONTRACTS FOR ALL PERMANENT REPAIRS THROUGH AN INFORMAL BID, SOLICITATION OR NEGOTIATION PROCESS, IF NECESSARY, WITHOUT RETURN TO COUNCIL

WHEREAS, on January 5, 2006, the City Administrator proclaimed a local emergency throughout the City of Oakland as a result of the 2005-06 winter storms that occurred from December 17, 2005 through January 3, 2006; and

WHEREAS, on January 12, 2006, the City Council approved Resolution No. 79669 C.M.S. ratifying the City Administrator's proclamation as required by California Government Code Section 8630; and

WHEREAS, on January 12, 2006, the State of California declared a similar state of emergency that included Alameda County; and

WHEREAS, on February 23, 2006, a presidential proclamation (DR-1628) was proclaimed for Alameda County damages incurred from the severe winter storms between December 17, 2005 and January 3, 2006; and

WHEREAS, on June 5, 2006, a second presidential proclamation (DR-1646) was proclaimed for Alameda County damages incurred from the severe storms between March 25, 2006 and April 16, 2006; and

WHEREAS, the City is in the process of seeking approval and subsequent reimbursement from the applicable state and federal agencies for storm mitigation work required as a result of the storms occurring during these two disaster periods; and

WHEREAS, the Public Works Agency (PWA) Department of Infrastructure and Operations Maintenance Services crews responded to erosion or mudslide problems at 88 locations after these severe storms to remove mud and debris, clean storm drains and creeks, and provide temporary stabilization measures for City roadways within the City's right of way and within easements; and

WHEREAS, such emergency responses fall under the Federal Emergency Management Agency (FEMA) categories of Debris Removal and Protective Measures, and under the Federal Highway Administration (FHWA) category of Emergency Reopening; and

WHEREAS, PWA will apply for reimbursement from FEMA and FHWA for these emergency mitigation expenses; and

WHEREAS, PWA Maintenance Services subsequently referred twenty of these 88 slide locations to PWA Engineering Services for permanent restoration work such as retaining walls, slope stabilization, storm drain system rehabilitation and environmental mitigation measures; and

WHEREAS, permanent restoration work at the twenty landslide locations is necessary to provide stability to City roads, to restore storm drainage capacity and to provide other mitigation measures; and

WHEREAS, the design, construction and inspection costs for the emergency repairs and permanent restoration work at these twenty landslide locations may cost an estimated \$6,094,763.00 and

WHEREAS, it is anticipated that federal and state agencies will reimburse the City up to \$5,579,537.24 for these emergency repairs and permanent restoration work; and

WHEREAS, FEMA has already authorized reimbursement of \$206,131.54 with probable approval of up to 93.25% of the total costs for the completed roadway stabilization projects on Elverton Drive and Gaspar Drive; and

WHEREAS, this emergency and permanent restoration work costing an estimated \$6,094,769.00, is between 80 and 93.25 percent reimbursable from state and federal agencies and these costs are above and beyond the City's adopted budget; and

WHEREAS, City Charter Section 801 requires the Council to establish expenditures and make necessary appropriations for such expenditures as part of the budget process; and

WHEREAS, the aforementioned emergency restoration and permanent restoration work and support related activities resulting from the storms of these two disaster periods are not foreseeable when preparing the two-year budget, and emergency actions require quick turnaround financial support to incur expenditures or deposit reimbursements; and

WHEREAS, PWA needs advance City Council authorization for the City Administrator or her designees to accept funds from the State of California and federal agencies for reimbursable costs; and

WHEREAS, this resolution would authorize the City Administrator or her designees to accept funds from state and/or federal agencies for these emergency response activities, therefore, such reimbursement would minimize the fiscal impact on the City; and

WHEREAS, it is recommended that the City Council waive the City's advertising, competitive bidding and solicitation and award-to-the-lowest-responsible-bidder requirements for professional services contracts because it is important that design work for the permanent repairs be completed in a timely manner in order to prevent further damage to the public infrastructure and to protect public safety; and

WHEREAS, this resolution would authorize the City Administrator or her designees to award engineering, architectural and construction contracts for the emergency permanent repair of the subject locations included in Attachments B through D through an informal bid process, enabling construction prior to the end of the year without return to Council; and

WHEREAS, the appropriation for expenditure amounts related to state and federal-approved PWA emergency reopening and permanent restoration activities should be offset by up to \$5,579,537.24 of state and federal funding and the fund, organization, account, project, and program codes would be determined by the appropriate state and/or federal agency requirements and funding sources; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the Public Works Agency \$6,094,763.00 to fund emergency restoration and permanent landslide restoration measures; and, be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designees to accept funds from State of California and federal agencies for actual emergency reopening and permanent restoration actions and support activities carried out by the Public Works Agency as a result of these storms; and, be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designees to create and activate the FEMA 1628 DR – 2005-2006 Winter Storm Fund (2061) for federal costs associated with the December 17, 2005 to January 3, 2006 storms under presidential declaration 1628 DR and the FEMA 1646 DR – Spring Storms Fund (2062) for federal costs associated with the March 29, 2006 to April 16, 2006 storms under presidential declaration 1646 DR; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designees to appropriate \$6,094,763.00 into four funds as detailed below:

Fund	Organization	Account	Program	Amount
2061 (FEMA 1628 DR 2005-2006– Winter Storms)	92242 (Streets and Structures)	54011 (Contract Contingencies)	IN05 (Engineering Planning and Design)	\$3,137,068.05
2062 (FEMA 1646 DR – Spring Storms 2006)	92242 (Streets and Structures)	54011 (Contract Contingencies)	IN05 (Engineering Planning and Design)	\$1,610,963.50
2146 (California State	92242 (Streets and	54011 (Contract	IN05 (Engineering	\$831,505.69

Emergency Services)	Structures)	Contingencies)	Planning and Design)	
1010 (General Purpose Fund)	92242 (Streets and Structures)	54011 (Contract Contingencies)	IN05 (Engineering Planning and Design)	\$515,225.76
TOTAL:				\$6,094,763.00

This \$6,094,763.00 appropriation shall be divided into twenty different project numbers (i.e. one for each of the twenty storm damaged sites); and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designees to budget revenues as detailed below;

Fund	Organization	Account	Program	Amount
2061 (FEMA 1628 DR – Winter Storms)	92242 (Streets and Structures)	46128 (FEMA – 75% Federal)	IN05 (Engineering Planning and Design)	\$3,137,068.05
2062 (FEMA 1646 DR – Spring Storms)	92242 (Streets and Structures)	46128 (FEMA – 75% Federal)	IN05 (Engineering Planning and Design)	\$1,610,963.50
2146 (California State Emergency Services)	92242 (Streets and Structures)	46229 (Miscellaneous State Grants)	IN05 (Engineering Planning and Design)	\$831,505.69
1010 (General Purpose Fund)	Appropriation within Fund 1010 will come from existing revenue receipts. No new revenue is expected.			N/A
TOTAL:				\$5,579,537.24

and be it

FURTHER RESOLVED: That if state and federal funds are not reimbursed at the level anticipated and a higher local share is required, staff shall return to Council for additional budget authority within the General Purpose Fund (1010); and, be it

FURTHER RESOLVED: That, pursuant to Oakland Municipal Code Title 2, Chapter 2.04, Article 2.04.051.B and for the reasons stated above, the City Council finds and determines that it is in the City's best interests to waive the City's competitive request for proposal or qualifications requirements for to-be-contracted professional services needed to design the permanent repairs in a timely manner; and authorizes the City Administrator, or her designees, to award engineering, architectural and construction contracts for the emergency permanent repair of the subject locations included in Attachments B, C and D without return to Council, provided all such consultants comply with the programs administered by the Office of Contract Compliance; and, be it

FURTHER RESOLVED: That, pursuant to Oakland Municipal Code Title 2, Chapter 2.04, Article 2.04.050.I.5 and for the reasons stated above, the City Council finds and determines that it is in the City's best interests to waive the City's competitive advertising, bidding and "lowest responsible bidder" award requirements for construction or procurement contracts needed to complete permanent repairs in a timely manner, and authorizes the City Administrator

or her designees to bid the construction contracts informally or negotiate if such bidding does not yield viable bids, provided all such contractors pay prevailing wages and comply with the City's Local and Small Local Business Enterprise, Local Employment, Apprenticeship and other applicable contracting programs; and, be it

FURTHER RESOLVED: That the City Council requires staff to return to Council and seek approval to award any construction contract pursuant to this Resolution that cannot be awarded before the end of this year due to environmental issues, engineering concerns or any other reasons, and such delayed contracts shall follow standard City contract bidding and award procedures; and, be it

FURTHER RESOLVED: That all contracts executed under the authority granted hereunder will be approved for form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006 2006

PASSED BY THE FOLLOWING VOTE:


AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG,
AND PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:


LATONDA SIMMONS

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