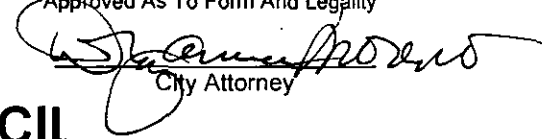


OFFICE OF THE CITY CLERK
OAKLAND

2011 MAY 12 AM 9:31

Approved As To Form And Legality


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No: _____ C.M.S.

RESOLUTION: 1) WAIVING ADVERTISING, COMPETITIVE BID AND REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENTS; AND, 2) AUTHORIZING THE CITY ADMINISTRATOR, OR HIS DESIGNEE, TO AWARD CONSTRUCTION, DESIGN-BUILD AND CONSTRUCTION MANAGER AT-RISK CONTRACTS FOLLOWING THE SOLICITATION OF QUALIFICATIONS FROM BUSINESSES BY MAIL OR ELECTRONIC MEDIA AND NEGOTIATION WITH THE BUSINESSES DEEMED MOST SUITABLE FOR EACH PROJECT PURCHASE NECESSARY DESIGN AND OTHER LICENSED PROFESSIONAL SERVICES, CONSTRUCTION LABOR AND MATERIALS, DESIGN-BUILD SERVICES AND CONSTRUCTION-MANAGER AT-RISK SERVICES ON THE OPEN MARKET FOR THE DESIGN AND CONSTRUCTION OF THE REDEVELOPMENT AGENCY FUNDED PROJECTS LISTED IN EXHIBIT "A" WITHIN THE PROJECT BUDGETS INDICATED THEREIN, WITHOUT RETURN TO THE CITY COUNCIL

WHEREAS, the Governor's proposed state budget for 2011-12 proposes to eliminate redevelopment agencies; and

WHEREAS, according to the draft legislation, the successor agencies to redevelopment agencies, i.e., the city that created the agency, would use these funds to retire redevelopment debts and preexisting contractual obligations and make other payments under the direction of an appointed oversight board; and

WHEREAS, on March 3, 2011, Council approved Resolution No. 83256 C.M.S. authorizing a funding agreement with the Redevelopment Agency of the City of Oakland to provide for Agency funding of City public improvements and other redevelopment projects and programs; and

WHEREAS, the latest proposed legislation eliminating redevelopment has been revised to add a clawback provision that would allow the state controller to order that any funds or other assets transferred from the redevelopment agency to the city after January 1, 2011 be returned to the agency; and

WHEREAS, an exception to the clawback provision would be if the city is "contractually committed to a third party for the expenditure or encumbrance of those assets"; and

WHEREAS, the existence of the funding agreement approved by the City Council on March 3, 2011 would not be considered a contract committed to a third party unless these redevelopment funds are obligated by the City under a design or construction contract; and

WHEREAS, the proposed legislation requires the Agency to submit a report on the City's existing enforceable obligations to the state controller within 60 days after the legislation passes; and

WHEREAS, it would be necessary to have design and construction contracts needed to complete the Redevelopment Agency funded projects listed in Exhibit A executed to include them in the report and protect funding by establishing that there are existing third-party contracts for the listed projects; and

WHEREAS, many of these redevelopment funded public improvements are still in planning and design phases and the time to complete the advertised request for proposal/qualifications and bid processes and award and execute contracts will well exceed the allowed 60 days; and

WHEREAS, Oakland Municipal Codes sections 2.04.050.1.5 and 2.04.051.B permit the City Council to waive advertising and bidding with award to the lowest, responsible, responsive bidder, and to waive advertising and the request for proposal/qualifications ("RFP/Q") requirements for professional services, design-build and construction manager at-risk contracts, respectively, upon findings that it is in the City's best interests to do so; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary construction work and the City Council finds and determines that the performance of the construction contracts authorized hereunder are in the public interest because of better economy in light of the state redevelopment agency legislation; and

WHEREAS, the City Council finds and determines that the services contracts authorized hereunder are of a professional, scientific or technical and temporary nature and 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 the Council finds and determines, for the reasons stated above and in the City Administrator's report accompanying this Resolution and pursuant to Oakland Municipal Code sections 2.04.050.1.5 and 2.04.051.B, that it is in the best interests of the City to waive advertising and other competitive purchasing processes, such as bidding with award to the lowest responsible, responsive bidder, and request for proposals/qualifications requirements, for the purchase of design and other licensed professional services, construction labor and materials, design-build services and construction-manager at risk services needed for the design and construction of the Redevelopment Agency funded projects listed in Exhibit A, and so waives the requirements; and be it

FURTHER RESOLVED: That the City Administrator is authorized to award construction, design-build and construction manager at-risk, licensed professional and other construction- and development-related professional, scientific and technical services

contracts following the solicitation of qualifications from businesses by mail or electronic media and negotiation with the businesses deemed most suitable for each project; and be it

~~— FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is authorized to purchase the necessary design and other licensed professional services, construction labor or materials, design-build services and construction manager-at-risk services on the open market for the design and construction of the Redevelopment Agency-funded projects listed in Exhibit A within the project budgets indicated therein, without return to the City Council; and be it~~

~~FURTHER RESOLVED: That the City Administrator is authorized to add additional projects to the list once the Council and Redevelopment Agency Board approve the project and funding; and be it~~

FURTHER RESOLVED: Businesses awarded these contracts will be required to meet all of the City's local business and employment program requirements; and be it

FURTHER RESOLVED: That construction contractors shall be required to provide performance and payment bonds for one hundred percent (100%) of the contract amount prior to execution of the contract; and be it

FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is hereby authorized to execute any amendments or modifications to said agreement within the limitations of the project specifications; and be it

FURTHER RESOLVED: That all contracts authorized hereunder shall be reviewed and approved by the City Attorney for form and legality and placed on file in the Office of the City Clerk.

812320

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF,
AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council of the City
of Oakland, California

REVISED BY COMMUNITY ECONOMIC DEVELOPMENT COMMITTEE, 5/10/11

FILE
OFFICE OF THE CITY CLERK
OAKLAND

Approved As To Form And Legality


City Attorney

2611 MAY 12 AM 9:32

OAKLAND CITY COUNCIL

RESOLUTION No: _____ C.M.S.

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WHEREAS, the Governor's proposed state budget for 2011-12 proposes to eliminate redevelopment agencies; and

WHEREAS, according to the draft legislation, the successor agencies to redevelopment agencies, i.e., the city that created the agency, would use these funds to retire redevelopment debts and preexisting contractual obligations and make other payments under the direction of an appointed oversight board; and

WHEREAS, on March 3, 2011, Council approved Resolution No. 83256 C.M.S. authorizing a funding agreement with the Redevelopment Agency of the City of Oakland to provide for Agency funding of City public improvements and other redevelopment projects and programs; and

WHEREAS, the latest proposed legislation eliminating redevelopment has been revised to add a clawback provision that would allow the state controller to order that any funds or other assets transferred from the redevelopment agency to the city after January 1, 2011 be returned to the agency; and

WHEREAS, an exception to the clawback provision would be if the city is "contractually committed to a third party for the expenditure or encumbrance of those assets"; and

WHEREAS, the existence of the funding agreement approved by the City Council on March 3, 2011 would not be considered a contract committed to a third party unless these redevelopment funds are obligated by the City under a design or construction contract; and

WHEREAS, the proposed legislation requires the Agency to submit a report on the City's existing enforceable obligations to the state controller within 60 days after the legislation passes; and

WHEREAS, it would be necessary to have design and construction contracts needed to complete the Redevelopment Agency funded projects listed in Exhibit A executed to include them in the report and protect funding by establishing that there are existing third-party contracts for the listed projects; and

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WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary construction work and the City Council finds and determines that the performance of the construction contracts authorized hereunder are in the public interest because of better economy in light of the state redevelopment agency legislation; and

WHEREAS, the City Council finds and determines that the services contracts authorized hereunder are of a professional, scientific or technical and temporary nature and 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 the Council finds and determines, for the reasons stated above and in the City Administrator's report accompanying this Resolution and pursuant to Oakland Municipal Code sections 2.04.050.1.5 and 2.04.051.B, that it is in the best interests of the City to waive advertising and other competitive purchasing processes, such as bidding with award to the lowest responsible, responsive bidder, and request for proposals/qualifications requirements for the purchase of design and other licensed professional services, construction labor and materials, design-build services and construction-manager at risk services needed for the design and construction of the Redevelopment Agency funded projects listed in Exhibit A, and so waives the requirements; and be it

FURTHER RESOLVED: That the City Administrator is authorized to award construction, design-build and construction manager at-risk, licensed professional and other construction- and development-related professional, scientific and technical services contracts following the solicitation of qualifications from businesses by mail or electronic media and negotiation with the businesses deemed most suitable for each project; and be it

FURTHER RESOLVED: Businesses awarded these contracts will be required to meet all of the City's local business and employment program requirements; and be it

FURTHER RESOLVED: That construction contractors shall be required to provide performance and payment bonds for one hundred percent (100%) of the contract amount prior to execution of the contract; and be it

FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is hereby authorized to execute any amendments or modifications to said agreement within the limitations of the project specifications; and be it

FURTHER RESOLVED: That all contracts authorized hereunder shall be reviewed and approved by the City Attorney for form and legality and placed on file in the Office of the City Clerk.

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NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council of the City
of Oakland, California