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CITY OF OAKLAND



2009 JUL -2 PM 7:08
CITY HALL

1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Dan Lindheim
Acting City Administrator

(510) 238-3301

July 14, 2009

Finance & Management Committee
Oakland City Council
Oakland, California

Chairperson Quan and Members of the Committee:

Re: Report On A Resolution Authorizing The City/Agency Administrator To Make Grant Awards, Accept Grant Funds And Take Action On Procurement Of Certain Supplies, Construction Labor And Materials Exceeding \$500,000.00 And Professional Services Contracts Exceeding \$300,000.00 During The City Council Annual Recess Of 2008 As Follows:

1. **Resolutions Authorizing the City Administrator, on Behalf of the City of Oakland, to Award an On-Call Construction Contract to the Lowest Responsive, Responsible Bidder for Citywide Resilient Safety Surfaces Under ADA (Americans With Disabilities Act) Play Surfacing Project (No. C274251) in Accord with Plans and Specifications For the Project and Contractor's bid in the Amount Not-To-Exceed Six Hundred Thousand Dollars (\$600,000.00); and**
2. **Resolution Authorizing The City Administrator, On Behalf Of The City Of Oakland, To Approve Two Brownfield Cleanup Revolving Loan Fund Loans / Grants from the City's Existing Environmental Protection Agency / American Reinvestment and Recovery Act-Funded Loan Program to: 1) Debra Esposito for Environmental Remediation at 2906 Chapman Street, Related to the Development of 12 units of Housing, for an Amount Not-to-Exceed \$400,000.00; and 2) Aspire Charter School, for Environmental Remediation at 1009-66th Avenue Related to the Development of a 420-Student Charter School, for an Amount Not-to-Exceed \$1,000,000.00; and a**

Resolution Authorizing The City Administrator, On Behalf Of The City Of Oakland, To Apply For New Grant Opportunities, And To Accept Funds From Grants Awarded To the City of Oakland From The American Recovery And Reinvestment Act Of 2009 (Federal Government's "Stimulus Package") During the City Council's 2009 Annual Recess

Item: _____
F&M Committee
July 14, 2009

SUMMARY

This report describes the process for handling legislative matters during the City Council Annual Recess of 2009 and requests authorization by the City Council to take action on procurement of certain supplies, construction labor and materials exceeding \$500,000 and professional services contracts exceeding \$300,000 during the City Council Annual Recess of 2009.

FISCAL IMPACT

Construction Contract / Revolving Loan Funds/Grants

1) Contractor TBD, On-Call Citywide Resilient Safety Surfaces	\$ 600,000
2) Brownfield Revolving Fund Loans/Grants	
Debra Esposito	400,000
Aspire Charter School	<u>1,000,000</u>
TOTAL	\$2,000,000

BACKGROUND

Resolution No. 79006 C.M.S., adopted in March 2005, establishes the City Council's Rules of Procedures, including procedures for the annual summer recess. The Annual Recess runs from August 1 through August 31 each year, or until the first meeting in September, as set by the Rules and Legislation Committee. During the summer recess, the Mayor is authorized to take such actions as would normally be taken by the City Council. In order to implement the provisions of the Rules of Procedures resolution, and in compliance with the Sunshine Ordinance, the City Administrator, as the Mayor's designee, through the City Clerk, will continue to notice, publish, and post in appropriate locations on Fridays a "two-week agenda" during the recess. Ordinances and reports to Committees will not be processed during the recess and supplemental agendas will not be published.

Further, Chapter 2 [2.04.020-1] of the Oakland Municipal Code authorizes the City Administrator to approve during recess contracts, in any one transaction, pertaining to: (1) supplies and services procurement not exceeding Five Hundred Thousand Dollars (\$500,000), and (2) professional services not exceeding Three Hundred Thousand Dollars (\$300,000). Any action exceeding the contract limits will be subject to ratification by the City Council.

KEY ISSUES AND IMPACTS

Proposed Authorizations

There are two (2) projects scheduled during the City Council recess that may be negatively impacted if not awarded in a timely manner. Staff reports and resolutions regarding the following contracts will appear on the Mayor's Summer Recess agendas:

Item: _____
F&M Committee
July 14, 2009

1. **Resolution Authorizing the City Administrator, on Behalf of the City of Oakland, to Award an On-Call Construction Contract to the Lowest Responsive, Responsible Bidder for Citywide Resilient Safety Surfaces Under ADA (Americans With Disabilities Act) Play Surfacing Project (No. C274251) in Accord with Plans and Specifications for the Project and Contractor's Bid in the Amount Not-To-Exceed Six Hundred Thousand Dollars (\$600,000.00)**

Approval of the proposed contract will enable the City to address deficient safety surfaces and non-compliant ADA accessible playgrounds. The City Administrator's Office ADA Program has established funds under ADA Transition Plan approved by the Commission on Persons with Disabilities, for park and recreation improvements. The safety-surface replacement priority project list has been established for over two years. Advertising and a competitive bid process are in progress for this contract and the successful bidder will be required to comply with all City contracting programs and policies. The on-call safety surface contractor will expedite implementation of the priority sites. Awarding the contract during Council recess will allow the City to complete first priority projects prior to the on-set of inclement weather.

2. **Resolution Authorizing The City Administrator, On Behalf Of The City Of Oakland, To Approve Two Brownfield Cleanup Revolving Loan Fund Loans / Grants from the City's Existing Environmental Protection Agency / American Reinvestment and Recovery Act-Funded Loan Program to: 1) Debra Esposito for Environmental Remediation at 2906 Chapman Street, Related to the Development of 12 units of Housing, for an Amount Not-to-Exceed \$400,000.00; and 2) Aspire Charter School, for Environmental Remediation at 1009-66th Avenue Related to the Development of a 420-Student Charter School, for an Amount Not-to-Exceed \$1,000,000.00**

The Esposito Loan is necessary in order to arrange for remediation and grading on the site at 2906 Chapman Street prior to the onset of the winter rainy season.

Aspire Schools purchased the property at 1009-66th Avenue property last year, has spent nearly \$900,000 of their own funds on initial remediation, and is ready to conduct the remaining remediation activities, which are budgeted at \$1,200,000. Aspire wishes to proceed with the remediation action followed by grading activities in autumn, prior to the winter rainy season.

The City expects to hear from the Environmental Protection Agency (EPA) regarding stimulus-related additional funding in mid-July, and therefore could not bring this item to Committee / Council prior to the Annual Summer Recess. Stimulus-related funding is expected to be on a fast track and expediency is one of its mandates.

Item: _____
F&M Committee
July 14, 2009

Staff reports and resolutions for the above projects will be prepared during the recess and appear on the Mayor's Summer Recess Agendas.

American Recovery and Reinvestment Act of 2009

Staff continues to monitor possible ARRA grant opportunities. When released, many of these grants have very short application periods. To avoid missing any funding opportunities a resolution has been prepared authorizing the City Administrator to submit applications for those grants that have deadlines during the time City Council is on its Annual Recess.

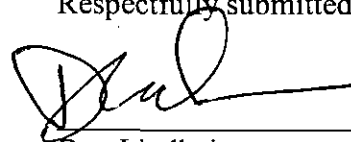
Additionally, a few of the resolutions adopted by the City Council which directed the City Administrator to apply for certain grant opportunities lacked some of the specific details necessary to request Council approval to accept or appropriate any monies awarded without return to Council. The proposed resolution will authorize the City Administrator to accept ARRA funding awarded to the City of Oakland, should the grantor require acceptance on or before the date City Council returns from the 2009 Annual Recess. Authorization to appropriate said ARRA funds will be brought to the City Council for approval after the Annual Summer Recess.

ACTIONS REQUESTED OF THE CITY COUNCIL

It is requested that the City Council adopt the resolution authorizing the City Administrator to approve the items listed in this report, which exceed the Administrator's Annual Recess authority; and adopt the resolution authorizing the City Administrator to apply for any new ARRA grant opportunities and accept and ARRA grants awarded, which have deadlines prior to Council's return.

In accordance with Rule 21 of the Council's Rules of Procedures (Resolution No. 79006 C.M.S.), a full and complete report will be presented to the Agency / City Council at its first regularly scheduled meeting in October of the actions taken pursuant to this resolution, at which time the Agency / City Council may make such findings and confirm the actions taken during the Annual 2009 Recess.


Respectfully submitted,



Dan Lindheim
City Administrator

Prepared by: William Roy Uber
Assistant to the City Administrator
Office of the City Administrator

Item: _____
F&M Committee
July 14, 2009


City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2009 JUL -2 PM 7:00 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY/AGENCY ADMINISTRATOR TO MAKE GRANT AWARDS, ACCEPT GRANT FUNDS AND TAKE ACTION ON PROCUREMENT OF CERTAIN SUPPLIES, CONSTRUCTION LABOR AND MATERIALS EXCEEDING \$500,000.00 AND PROFESSIONAL SERVICES CONTRACTS EXCEEDING \$300,000.00 DURING THE CITY COUNCIL ANNUAL RECESS OF 2008 AS FOLLOWS:

1. **RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO AWARD AN ON-CALL CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER FOR CITYWIDE RESILIENT SAFETY SURFACES UNDER ADA (AMERICANS WITH DISABILITIES ACT) PLAY SURFACING PROJECT (NO. C274251) IN ACCORD WITH PLANS AND SPECIFICATIONS FOR THE PROJECT AND CONTRACTOR'S BID IN THE AMOUNT NOT-TO-EXCEED SIX HUNDRED THOUSAND DOLLARS (\$600,000.00); AND**

2. **RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO APPROVE TWO BROWNFIELD CLEANUP REVOLVING LOAN FUND LOANS/GRANTS FROM THE CITY'S EXISTING ENVIRONMENTAL PROTECTION AGENCY / AMERICAN REINVESTMENT AND RECOVERY ACT-FUNDED LOAN PROGRAM TO: 1) DEBRA ESPOSITO FOR ENVIRONMENTAL REMEDIATION AT 2906 CHAPMAN STREET, RELATED TO THE DEVELOPMENT OF 12 UNITS OF HOUSING, FOR AN AMOUNT NOT-TO-EXCEED \$400,000.00; AND 2) ASPIRE CHARTER SCHOOL, FOR ENVIRONMENTAL REMEDIATION AT 1009-66TH AVENUE RELATED TO THE DEVELOPMENT OF A 420-STUDENT CHARTER SCHOOL, FOR AN AMOUNT NOT-TO-EXCEED \$1,000,000.00**

WHEREAS; Federal, State and local grant agencies and Oakland City Council Rules of Procedure (Resolution No. 79006 C.M.S.), Rule 21, require the Council to authorize the City Administrator to accept and appropriate funds for which the City of Oakland has applied, and Council Rules of Procedure Rule 21 and Oakland Municipal Code Section 2.04.016 requires the Council to authorize acceptance of grant funds; and

WHEREAS, there are numerous federal, state or local grants that may become available to Oakland and that may require acceptance during the Council recess, which may be negatively impacted if not accepted in a timely manner; and

WHEREAS, Oakland Municipal Code Section 2.04.020 sets purchase approval/expenditures limits for the City Administrator during the annual Summer Recess of the City Council at \$500,000.00 for procurement of certain supplies, construction labor and materials and \$300,000.00 for professional services contracts; and

WHEREAS, there is one (1) purchase that exceeds these expenditure limits that would be ready for approval during the Council recess and may have negative impacts if not timely approved; and

WHEREAS, the following authorization is sought for a construction and professional services contract during the Council Summer Recess:

1. Resolution Authorizing the City Administrator, on Behalf of the City of Oakland, to Award an On-Call Construction Contract to the Lowest Responsive, Responsible Bidder for Citywide Resilient Safety Surfaces Under ADA (Americans With Disabilities Act) Play Surfacing Project (No. C274251) in Accord with Plans and Specifications For the Project and Contractor's bid in the Amount Not-To-Exceed Six Hundred Thousand Dollars (\$600,000.00); and

WHEREAS, the services agreements identified hereunder are temporary and of a professional, technical or scientific nature; and

WHEREAS, for the construction agreement identified herein the City lacks the equipment and qualified personnel to perform the necessary work, and the City Council finds that performance of the construction agreement identified herein is in the public interest because of economy, and services under these agreements will be temporary; and

WHEREAS, the City Council finds and determines that the performance of any of the professional services or construction agreements identified herein shall not result in the loss of employment or salary by any person(s) having permanent status in the competitive service; and

WHEREAS, Oakland City Council Rules of Procedure (Resolution No. 79006 C.M.S.) do not authorize the City Administrator to approve loans or grants during the annual Summer Recess and there are two (2) loans/grants that will require approval during the Council recess and may have negative impacts if not timely approved; and

WHEREAS, the following authorizations are sought for two Brownfield Cleanup Revolving Loan Fund Loans/Grants disbursements during the Council Summer Recess:

1. Resolution Authorizing The City Administrator, On Behalf Of The City Of Oakland, To Approve Two Brownfield Cleanup Revolving Loan Fund Loans/Grants from the City's Existing Environmental Protection Agency / American Reinvestment and Recovery Act-

Funded Loan Program to: 1) Debra Esposito for Environmental Remediation at 2906 Chapman Street, Related to the Development of 12 units of Housing, for an Amount Not-to-Exceed \$400,000.00; and 2) Aspire Charter School, for Environmental Remediation at 1009-66th Avenue Related to the Development of a 420-Student Charter School, for an Amount Not-to-Exceed \$1,000,000.00; and

WHEREAS, due to the urgent nature of all projects which may receive funding from the federal American Recovery and Reinvestment Act (ARRA) of 2009 may require that the City Administrator accept said federal monies prior to the return of the Council, though no such funds shall be appropriated without the Council’s review and approval upon their return in September; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to accept grant funds and enter into the Brownfield Revolving Loan Fund Loans/Grants and to enter into agreements for construction and professional services agreement set forth herein in the amounts stated; and be it

FURTHER RESOLVED: That the City Administrator shall publish and approve separate resolutions through the City Council/Redevelopment Agency annual recess agenda process for any contracts authorized hereunder prior to execution of the contract; and be it

FURTHER RESOLVED: That the City Administrator shall, in accordance with the Council’s Rules of Procedure, Rule 21, make a full and complete report to the City Council at its first regularly scheduled meeting in October, of the actions taken pursuant to this resolution, at which time the City Council may make such findings and confirm said actions as may be required; and be it

FURTHER RESOLVED: That the City Attorney shall approve all contracts as to form and legality prior to execution and a copy shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -


ABSENT -

ABSTENTION -

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

2009 JUL -2 PM 7:09 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, ON BEHALF OF THE CITY OF OAKLAND, TO APPLY FOR NEW GRANT OPPORTUNITIES, AND TO ACCEPT FUNDS FROM GRANTS AWARDED TO THE CITY OF OAKLAND FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (FEDERAL GOVERNMENT'S "STIMULUS PACKAGE") DURING THE CITY COUNCIL'S 2009 ANNUAL RECESS

WHEREAS, it is anticipated that the U.S. Government will award grant funds in the amount of approximately \$787 billion dollars from the American Recovery and Reinvestment Act of 2009 (Federal Government's "Stimulus Package", a.k.a., ARRA) to state and local governments to stimulate the economy by creating and preserving jobs; and

WHEREAS, the City of Oakland may be eligible to receive a portion of the grants funds; and

WHEREAS, due the urgent economic conditions, the federal government is releasing information on an ongoing basis regarding application deadlines and the criteria for funding and the types of programs, projects that will qualify for the funding and the Mayor, City Administrator and the City Council wish to be in the best posture to (1) be apprised of and updated regarding developments regarding the ARRA opportunities and the City's options; (2) to prepare complete, and revise as necessary, timely grant applications; and (3) to obtain the maximum amount of grant funds for which the City of Oakland may be eligible; and

WHEREAS, there is the possibility that ARRA grant opportunities may arise that have application deadlines and/or require major planning activities during the time City Council is on its Annual Recess; and

WHEREAS, there are grant applications that have been submitted by the City for ARRA funding which may be awarded and require acceptance by the City of Oakland prior to the City Council's return from the 2009 Annual Recess; now, therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator or his designee to apply for and accept grant funds from the American Recovery and Investment Act of 2009 (Federal "Stimulus Package") for which the City qualifies, as allowable by the funding agency; and be it

FURTHER RESOLVED: That the City Council, hereby authorizes the City Administrator as agent of the City, or his designee to execute all agreements and other documents necessary in connection with the grants to accept any grant funds awarded during the City Council's Annual Recess, and be it

FURTHER RESOLVED: That the City Administrator shall not appropriate any awarded funds, as required by Rule 21 of the Council's Rules of Procedure (Resolution No. 79006 C.M.S.), but shall hold such requests till Council's return, unless appropriation has already been specifically authorized under a previously adopted resolution of the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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