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Office of the City Administrator
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City Administrator

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July 13, 2010

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 2010

SUMMARY

This report describes the process for handling legislative matters during the City Council Annual Recess of 2010 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 2010.

FISCAL IMPACT

Construction Contract / Revolving Loan Funds/Grants

1) Mosto Construction – Rehabilitation of Sanitary Sewers	\$ 346,007.00
2) Contractor TBD – Installation of Lake Merritt Bird Islands	800,000.00
3) Contractor TDB – Adeline Street Overhead Project	1,107,000.00
(Also includes a Resolution Accepting & Appropriating Highway Bridge Program grant funds for \$1,076,350.00 for the project)	
4) Caltrans Utility Agreement – Relocation of Sanitary Pipes	<u>3,000.00</u>
TOTAL	\$2,553,007.00

BACKGROUND

Resolution No. 82580 C.M.S., adopted in March 2010, establishes the City Council's Rules of Procedures, including procedures for the annual summer recess. The Annual Recess runs from

Item: _____
F&M Committee
July 13, 2010

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 Ordinances and reports to Committees will not be processed during the recess and supplemental agendas will not be published.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 four (4) 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:

- 1. Resolution Awarding A Construction Contract To Mosto Construction, Inc. For the Rehabilitation Of Sanitary Sewers At Easement In Oak Knoll From Sage Road To Saint Andrews Road (Project No. C329112) In Accord With Plans And Specification For The Project And Contractor's Bid In The Amount Of Three Hundred Forty-Six Thousand Seven Dollars (\$346,007.00)*

This sanitary rehabilitation project is located within a creek watershed and construction has to be completed by October 15, 2010. The bid opening was held on June 3, 2010. Awarding the contract during Council recess will allow the City to complete the project within the allotted timeframe.

- 2. A Resolution Awarding A Construction Contract To The Lowest Responsible, Responsive Bidder, For The Installation Of The Lake Merritt Bird Islands Restoration Project, (Project No. G323110) Or To Negotiate With The Lowest Bidder If Bids Are Deemed Non-Responsive Or Non-Responsible, In Accord With The Plans And Specifications In An Amount Not-To-Exceed \$800,000.00 Without Return To Council*

The Lake Merritt Bird Island Restoration project will restore the habitat quality of the five bird islands located in Lake Merritt. This project is funded by a grant from the California Coastal

Item: _____
F&M Committee
July 13, 2010

Conservancy. The proposed work consists of landscaping, shoreline stabilization, freshwater system improvements and shoreline improvements.

Construction must take place between September 1 and February 1 due to a limited window constrained by sensitive habitat and nesting regulations. The project is 100% fully funded by the Conservancy and funds must be expended this year. Awarding this contract during Council recess will enable the City to meet the limited construction and funding deadlines.

3. *A Resolution Awarding A Construction Contract To The Lowest Responsible, Responsive Bidder, For The Rehabilitation Of The Adeline Street Overhead Project, (Project Number C319710) Or To Negotiate With The Lowest Bidder If Bids Are Deemed Non-Responsive Or Non-Responsible, In Accord With The Plans And Specifications In An Amount Not-To-Exceed \$1,107,000.00 Without Return To Council; And*

A Resolution Authorizing The City Administrator Or His Designee To Accept And Appropriate One Million Seventy-Six Thousand Three Hundred Fifty Dollars (\$1,076,350.00) Of Federal Highway Administration (FHWA) – Highway Bridge Program (HBP) Grant Funds Under The California Department Of Transportation Bridge Preventive Maintenance Program (BPMP) For The Rehabilitation Of The Adeline Street Overhead, Between West Oakland, Interstate 880 And The Port Of Oakland, City Project No. C319710

The rehabilitation of the Adeline Street Overhead project will provide needed maintenance and repairs to the Adeline Street bridge, including foundation repair, replacement of bridge expansion joints, sealing the bridge deck, repair of concrete spalls and repair of the bridge chainlink fence. The project is funded by Federal Highway Administration-Highway Bridge Program grant funds under the California Department of Transportation Bridge Preventive Maintenance Program. The federal granting agency requires a local match of 11.5 percent.

Major portions of this work need to occur before the rainy season begins. The project was re-bid in June and in order to meet the deadlines that were submitted in the grant application to Caltrans, construction must be completed by December 2010. Awarding this contract during Council recess will enable the City to complete major portions of the project prior to the on-set of inclement weather and to meet the pre-established project deadlines.

4. *A Resolution Authorizing The City Administrator Or His Designee To Enter Into A Utility Agreement With The State Of California Department Of Transportation For Relocation Of Sanitary Pipes High Street And To Accept And Appropriate Funds From Caltrans Under Utility Agreement No. 1382, In An Amount Of Approximately Three Hundred Thousand Dollars (\$300,000.00)*

Approval of this resolution will authorize the acceptance and appropriation of funds from Caltrans under Utility Agreement No. 1382 which will facilitate the relocation of sanitary sewer

Item: _____
F&M Committee
July 13, 2010

pipes on High Street. Acceptance of these funds will facilitate the timely relocation of the sanitary sewer pipes before the on-set of inclement weather.

Grant Opportunities

Staff continues to monitor possible ARRA and other 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.

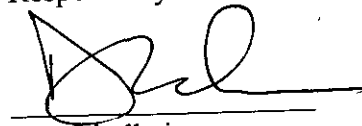
Additionally, a few of the resolutions adopted by the City Council which directed the City Administrator to apply for certain grant opportunities lacked some of the specific details necessary to request Council approval to accept or appropriate any monies awarded without return to Council. The proposed resolution will authorize the City Administrator to accept ARRA and other funding awarded to the City of Oakland, should the grantor require acceptance on or before the date City Council returns from the 2010 Annual Recess. Authorization to appropriate said ARRA and other grant 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. 82580 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 2010 Recess.

Respectfully submitted,



Dan Lindheim
City Administrator

Prepared by: Marjo R. Keller
Assistant to the City Administrator
Office of the City Administrator

Item: _____
F&M Committee
July 13, 2010

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION No. _____ C.M.S.
Introduced by Councilmember _____

2010 JUN 30 PM 6:17

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 2010

WHEREAS, Federal, State and local grant agencies and Oakland City Council Rules of Procedure (Resolution No. 82580 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 require 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 are three (3) purchases that exceed these expenditure limits that would be ready for approval during the Council recess and may have negative impacts if not timely approved; and

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

1. Resolution Awarding A Construction Contract To Mosto Construction, Inc. For The Rehabilitation Of Sanitary Sewers At Easement In Oak Knoll From Sage Road To Saint Andrews Road (Project No. C329112) In Accord With Plans And Specification For The Project And Contractor's Bid In The Amount Of Three Hundred Forty-Six Thousand Seven Dollars (\$346,007.00);
2. A Resolution Awarding A Construction Contract To The Lowest Responsible, Responsive Bidder, For The Installation Of The Lake Merritt Bird Islands Restoration Project, (Project No. G323110) Or To Negotiate With The Lowest Bidder If Bids Are Deemed Non-Responsive Or Non-Responsible, In Accord With The Plans And Specifications In An Amount Not-To-Exceed \$800,000.00 Without Return To Council;
3. A Resolution Awarding A Construction Contract To The Lowest Responsible, Responsive Bidder, For The Rehabilitation Of The Adeline Street Overhead Project,

(Project Number C319710) Or To Negotiate With The Lowest Bidder If Bids Are Deemed Non-Responsive Or Non-Responsible, In Accord With The Plans And Specifications In An Amount Not-To-Exceed \$1,107,000.00 Without Return To Council; And

A Resolution Authorizing The City Administrator Or His Designee To Accept And Appropriate One Million Seventy-Six Thousand Three Hundred Fifty Dollars (\$1,076,350.00) Of Federal Highway Administration (FHWA) – Highway Bridge Program (HBP) Grant Funds Under The California Department Of Transportation Bridge Preventive Maintenance Program (BPMP) For The Rehabilitation Of The Adeline Street Overhead, Between West Oakland, Interstate 880 And The Port Of Oakland, City Project No. C319710;

- 4. A Resolution Authorizing The City Administrator Or His Designee To Enter Into A Utility Agreement With The State Of California Department Of Transportation For Relocation Of Sanitary Pipes High Street And To Accept And Appropriate Funds From Caltrans Under Utility Agreement No. 1382, In An Amount Of Approximately Three Hundred Thousand Dollars (\$300,000.00); And

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

WHEREAS, for the construction agreements 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 agreements identified herein are 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, due to the urgent nature of all projects which may receive funding from the federal American Recovery and Reinvestment Act (ARRA) of 2009 or other granting agency, it 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 make grant awards, accept grant funds and take action on the procurement of construction and professional services agreement as 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 in accordance with the requirements of Rule 21 of the Council’s Rules of Procedure Resolution No. 82580, C.M.S.; 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

