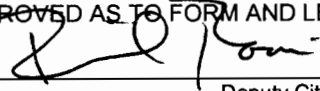


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 MAY 27 AM 10:22

APPROVED AS TO FORM AND LEGALITY



Deputy City Attorney

## OAKLAND CITY COUNCIL

### RESOLUTION No. 82827 C.M.S.

---

**A RESOLUTION AUTHORIZING APPLYING FOR, ACCEPTING, AND APPROPRIATING \$3.6 MILLION IN FEDERAL SURFACE TRANSPORTATION PROGRAM AND/OR CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT GRANT FUNDS FROM THE METROPOLITAN TRANSIT COMMISSION'S TRANSPORTATION FOR LIVABLE COMMUNITIES PROGRAM FOR THE TELEGRAPH TEMESCAL PEDESTRIAN STREETScape PROJECT; COMMITTING \$901,800 IN LOCAL MATCH FUNDS; STATING THE CITY'S ASSURANCE TO COMPLETE THE PROJECT; AND ACCEPTING A CONTRIBUTION FROM THE REDEVELOPMENT AGENCY UNDER THE COOPERATION AGREEMENT FOR \$661,800 OF THE LOCAL MATCH FUNDS**

**WHEREAS**, the Oakland Redevelopment Agency adopted a Five Year Implementation Plan for the Broadway/ MacArthur/ San Pablo Redevelopment Project, on December 8, 2009 (Resolution No. 2009-105 C.M.S.), that includes streetscape improvements within the project area; and

**WHEREAS**, the City of Oakland is submitting applications to the Metropolitan Transportation Commission ("MTC") Transportation for Livable Communities Program ("TLC") for \$3.6 million in funding from the federal Surface Transportation Program ("STP") and/or Congestion Mitigation and Air Quality Improvement ("CMAQ") program for the Telegraph Temescal Pedestrian Streetscape Project (herein referred to as the "Project") within the Broadway/MacArthur/San Pablo Redevelopment Project Area for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (the "Program"); and

**WHEREAS**, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA") (Public Law 109-59, August 10, 2005) authorized the STP (23 U.S.C. § 133) and the CMAQ (23 U.S.C. § 149) through September 30, 2009; and

**WHEREAS**, SAFETEA has been extended through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and may be subsequently extended pending enactment of successor legislation for continued funding; and

**WHEREAS**, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal STP and/or CMAQ funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

**WHEREAS**, MTC is the MPO for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

**WHEREAS**, the City is an eligible project sponsor for STP/CMAQ funds; and

**WHEREAS**, as part of the application for STP/CMAQ funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) The commitment of necessary local matching funds of at least 20%; and
- 2) That the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) That the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) The assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
- 5) That the project will comply with all the project-specific requirements as set forth in the Program; and

**WHEREAS**, the MTC TLC grant requires a local match of \$901,800 for the Project; and

**WHEREAS**, the Temescal Telegraph Business Improvement District has pledged \$240,000 of their funds as a portion of the local match; and

**WHEREAS**, the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Redevelopment Agency financial contributions and other assistance to support City public improvements; and

**WHEREAS**, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; and

**WHEREAS**, the Redevelopment Agency has authorized \$661,800 to fund a portion of the required local match for the MTC grant, which will be transferred from the Redevelopment Agency from Broadway/MacArthur/San Pablo Tax Allocation Bonds

Series 2006C-T Fund (9538) Land Acquisition Project (T315210) to the City of Oakland under the Cooperation Agreement, Fund (7780), under a project number to be established; and

**WHEREAS**, the City and the Redevelopment Agency agree that the City is the Lead Agency for the Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

**WHEREAS**, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

**WHEREAS**, the execution of any documents legally committing the City to fund this Project shall be expressly conditioned upon compliance with the requirements of the National Environmental Protection Act ("NEPA"), as certified by the City Administrator or his designee; now therefore be it

**RESOLVED:** That the City is authorized to execute and file an application for funding for the Project under the STP/CMAQ of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding; and be it further

**RESOLVED:** That the City of Oakland by adopting this resolution does hereby state that:

1. The City will provide \$901,800 in non-federal matching funds; and
2. The City understands that the STP/CMAQ funding for the Project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City from other funds, and that the City does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. The City understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. The Project will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. The City and the Project will comply with the requirements as set forth in the Program; and be it further

**RESOLVED:** That the City is an eligible sponsor of STP/CMAQ funded projects; and be it further

**RESOLVED:** That City is authorized to submit an application for STP/CMAQ funds for the Project; and be it further

**RESOLVED:** That there is no legal impediment to the City making applications for the funds; and be it further

**RESOLVED:** That there is no pending or threatened litigation that might in any way adversely affect the proposed Project or the ability of the City to deliver such Project; and be it further

**RESOLVED:** That the City authorizes the City Administrator, or his designee to execute and file an application with MTC for STP/CMAQ funding for the Project as referenced in this Resolution; and be it further

**RESOLVED :** That a copy of this Resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED:** That the MTC is requested to support the application for the Project described in the resolution and to include the Project, if approved, in MTC's TIP; and be it further

**RESOLVED:** That the City Council hereby appropriates any funds that are received for this Project under the TLC grant program into the Metropolitan Transportation Commission Grant Fund (2163) under a project number to be established; and be it further

**RESOLVED:** That the City Council hereby consents to the use of \$661,800 in Redevelopment Agency funds from Broadway/MacArthur/San Pablo Tax Allocation Bonds Series 2006C-T Fund (9538) Land Acquisition Project (T315210) as matching funds, accepts such funds under the Cooperation Agreement, and appropriates such funds to the City repayment account in Fund 7780 under a project number to be established; and be it further

**RESOLVED:** That the City Council hereby finds and determines as follows:

1. That the funding of this Project will benefit the Broadway/MacArthur/San Pablo Redevelopment Project Area, and will assist in the elimination of blighting conditions in the Project Area by addressing needs related to the physical appearance, safety, and needed renovations to public facilities;
2. That due to fiscal constraints in the City's general fund and the high number of capital projects competing for limited City funds, the City's Capital Improvement Program budget is unable to provide financing for this Project, and therefore no other reasonable means of financing this Project is available to the City other than Redevelopment Agency funding;
3. That the use of tax increment funds from the Broadway/MacArthur/San Pablo Redevelopment Project for this Project is consistent with the Implementation Plan adopted for the Broadway/MacArthur/San Pablo Redevelopment Project;

and be it further

**RESOLVED:** That the City Council hereby accepts the contribution \$240,000 in funding from the Temescal-Telegraph Business Improvement District as a portion of the

required Local Match funds and appropriates such funds to Private Grant Fund (2190) under a project number to be established; and be it further

**RESOLVED:** That should additional funds be received for these projects, the City Administrator, or his designee, is hereby authorized to accept and allocate the same for the purposes described above; and be it further

**RESOLVED:** That the City Council hereby authorizes the City Administrator or his designee to negotiate grant terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures, and take all other actions with respect to the TLC Program grants and this Project in accordance with this Resolution and its basic purposes; and be it further

**RESOLVED:** That the City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the staff report accompanying this Resolution, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15301 (minor alterations to existing streets, sidewalks, and pedestrian and bicycle ways) of the CEQA guidelines; and be it further

**RESOLVED:** That the City Administrator or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for this Project; and be it further

**RESOLVED:** That the execution of any documents legally committing the City to fund this Project; shall be expressly conditioned upon compliance with the requirements of NEPA, as certified by the City Administrator or her designee; and be it further

**RESOLVED:** That all documents shall be reviewed and approved by the City Attorney's Office prior to execution, and all copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 15 2010, 2010

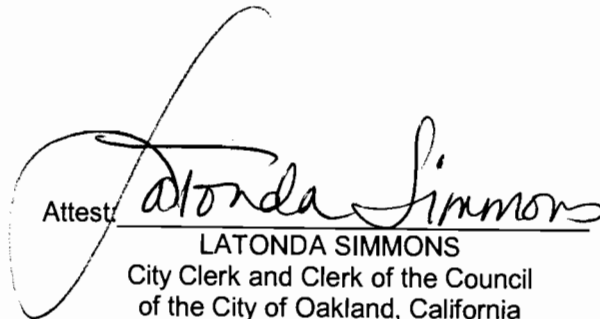
**PASSED BY THE FOLLOWING VOTE:**

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

Attest:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California