

CITY OF OAKLAND

AGENDA REPORT

2011 JUN 16 PM 5:41

TO: Office of the City Administrator
ATTN: P. Lamont Ewell, Interim City Administrator
FROM: Community and Economic Development Agency
DATE: June 28, 2011

RE: Resolution Waiving Advertising and Request for Proposals/Qualifications Requirements and Authorizing the City Administrator to Negotiate an Agreement with the Berkshire Group for Design of a Strategy for the Location/Relocation of Outdoor Advertising Billboards and Signs, and Assistance Negotiating Terms and Conditions, and Preparation, of Franchise Agreements with Outdoor Advertising Companies to Re-locate and/or to Locate Outdoor Advertising Signs within City Environs in an Amount Not to Exceed Eighty-Five Thousand Dollars (\$85,000)

SUMMARY

The City of Oakland sent out a Request for Proposals (RFP) to outdoor advertising (i.e., billboard) companies seeking proposals for placing billboards on City-owned property. The City analyzed all submitted proposals and will soon begin negotiating agreements with outdoor advertising agencies. In order to reach franchise agreements with outdoor advertising companies which maximize the revenue the City receives from its assets, staff recommend contracting with the Berkshire Group. The Berkshire Group is familiar with both real estate value generally and the outdoor advertising industry specifically. The Berkshire Group has experience negotiating franchise agreements on behalf of large government agencies, maximizing the revenue those municipalities receive, and can provide services key to successful billboard negotiations.

Staff has determined that the services the Berkshire Group provides are unique and are not available internally (i.e., within the City or Agency) or within the state of California. Billboard valuation is a specialized niche within the real estate industry, requiring expertise which is not widely available. Further, contracting with the Berkshire Group will not represent a significant cost to the City. In the first year, compensation will equal a one-time payment of \$5,000 with future earnings tied to performance and not to exceed \$85,000. Staff requests that City Council waive competitive bidding and award a contract to the Berkshire Group.

FISCAL IMPACT

The only direct cost to the City from this agreement would be an initial one-time payment of \$5,000 from the General Fund #1010 in the Finance and Management Agency- Revenue Division and in a project to be determined. All other compensation to the Berkshire Group is

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contingent upon and will be derived from revenue over and above a specified target amount. This revenue will be generated through the services (e.g. design and advice) of the Berkshire Group. Total compensation, \$5,000 plus a portion of excess revenue, will not exceed \$85,000. Only \$5,000 of the total compensation will be drawn from extant City monies (i.e., the General Fund).

BACKGROUND

In April 2011, staff sought local firm analysis from the City's Department of Contracting and Purchasing (DCP). The request for a DCP availability analysis specified a contractor who would, at the direction and supervision of the City, endeavor to raise and increase the City's revenues by designing a strategy to re-locate and/or to locate advertising signs within or attached to City-owned properties. Staff specified that the following services would be needed: (1) negotiation of revenue and other terms and conditions of the contracts with advertising companies, (2) preparation of franchise agreements, (3) determining real estate and outdoor advertising values, (4) familiarity with the billboard industry, and (5) experience working with large government agencies. DCP staff conducted three independent searches under multiple "NAICS" codes (North American Industrial Classification System, the definitive index of types of businesses used by the federal Bureau of Labor Statistics, among others). DCP staff concluded that while a small number of local firms had some of the required expertise as summarized above, no local firms had all of the required abilities, and as a result DCP determined that the City's 20% Local/Small Local Business Enterprise program requirements would be waived for this project.

KEY ISSUES AND IMPACTS

The City of Oakland requires that professional services contracts for amounts greater than \$25,000 undergo a competitive process, in part to ensure that the City selects and awards contracts based on competence and qualifications. The competitive process also takes into consideration other factors that the City prioritizes (e.g., whether a business is locally-owned). In this case, the services for which the City is contracting are strikingly unique. The contract requires a firm conversant in real estate, advertising, franchising, negotiating and the workings of large government agencies. While there may be local firms able to provide portions of these services, staff was unable to identify any which can provide an integrated package of these services and expertise.

EVALUATION OF PAST PERFORMANCE

The Berkshire Group has never before contracted for services with the City of Oakland.

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SUSTAINABLE OPPORTUNITIES

Economic: Staff believes that the awarding of this contract will help generate revenue for the City of Oakland. By engaging the Berkshire Group's knowledge and expertise, the City will increase its likelihood of negotiating the best possible franchise agreement(s) with outdoor advertising companies. It will lead to the development of tools the City can use to calculate the value of future franchise agreements. This, in turn, will strengthen the City's ability to negotiate future franchise agreements.

Environmental: There will not be any environmental opportunities resulting from this action.

Social Equity: There will not be any social equity opportunities resulting from this action.

DISABILITY AND SENIOR CITIZEN ACCESS

This action will not have any impact on disability and senior access.

RECOMMENDATION(S) AND RATIONALE

Under Oakland Municipal Code Section 2.04.051.A, staff is required to advertise a solicitation for proposals or qualifications for professional service contracts greater than \$25,000. However, under Oakland Municipal Code Section 2.043051.B, City Council may waive advertising and solicitation if it is in the City's best interests. Staff recommends that it is in the City's best interest to waive advertising and solicitation for proposals/qualifications and authorize the City Administrator to negotiate a contract with the Berkshire Group for design and advice regarding franchise agreements with outdoor advertising companies to re-locate and/or to locate outdoor advertising signs within City environs in an amount not to exceed eighty-five thousand dollars (\$85,000), because (1) the Berkshire Group can provide all services and expertise required; (2) the Berkshire Group will provide said services for a reasonable amount (i.e., \$5,000 initially and remainder drawn from and dependent upon revenue generation in excess of a specific target amount); and (3) thorough availability analyses found no certified firms which can provide the necessary services.

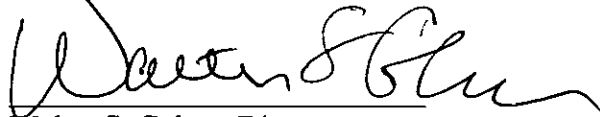
Further, the expertise of the Berkshire Group will help the City to develop a better process for evaluating outdoor advertising proposals. The Berkshire Group's work for the City will help establish the value of different franchise agreements and create a method to calculate the value of outdoor advertising.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution which accompanies this staff report.

Respectfully submitted,



Walter S. Cohen, Director

Community and Economic Development Agency

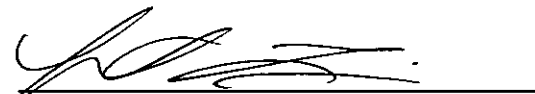
Reviewed by:

Eric Angstadt, Deputy Director

Prepared by:

Melissa K. McDonough, M.P.P.
Planning Department

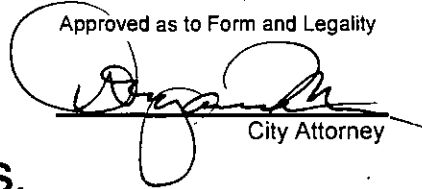
**APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:**



Office of the City Administrator

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OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION WAIVING ADVERTISING AND REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENTS AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AN AGREEMENT WITH THE BERKSHIRE GROUP FOR DESIGN OF A STRATEGY FOR THE LOCATION/RELOCATION OF OUTDOOR ADVERTISING BILLBOARDS AND SIGNS, AND ASSISTANCE NEGOTIATING TERMS AND CONDITIONS AND PREPARATION OF FRANCHISE AGREEMENTS WITH OUTDOOR ADVERTISING COMPANIES TO RE-LOCATE AND/OR TO LOCATE OUTDOOR ADVERTISING SIGNS WITHIN CITY ENVIRONS IN AN AMOUNT NOT TO EXCEED EIGHTY-FIVE THOUSAND DOLLARS (\$85,000)

WHEREAS, the Community Economic Development Agency wishes to raise and increase the City's revenues through designing and implementing a strategy for re-location and/or location of advertising signs within or attached to City-owned properties; and

WHEREAS, the services needed from the contractor include: (1) negotiation of revenue and other terms and conditions of the contracts with advertising companies, (2) preparation of franchise agreements, (3) determining real estate and outdoor advertising values, (4) familiarity with the billboard industry, and (5) experience working with large government agencies; and

WHEREAS, in April 2011, staff sought a local firm availability analysis from the City's Contracting and Purchasing Department for a contractor who could perform all the services needed for this project and, after several searches, it was determined that there are no certified firms meeting all of the City's requirements; and

WHEREAS, staff has identified a firm, the Berkshire Group, that is conversant in real estate, advertising, franchising, franchise agreement preparation, franchise negotiating and the workings of large government agencies, making it uniquely qualified and competent to provide the full breadth of services needed; and

WHEREAS, Oakland Municipal Code Section 2.04.051.A requires staff to advertise a solicitation for proposals or qualifications for professional services contracts of this size; and

WHEREAS, Oakland Municipal Code Section 2.04.051.B authorizes the City Council to dispense with such advertising and solicitation upon finding that it is in the City's best interests to do so; and

WHEREAS, staff recommends that it is in the City's best interests to waive advertising and solicitation of proposals/qualifications, and authorize the City Administrator to negotiate a contract for the work with the Berkshire Group for services needed in light of the breadth of services needed for the project and the Berkshire Group's unique qualifications; and

WHEREAS, the contract to be awarded hereunder involves services 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 service; and

WHEREAS, funding is available for this contract in General Fund #1010; now, therefore, be it

RESOLVED: That pursuant to Oakland Municipal Code section 2.04.051.B and for the reasons stated in the City Administrator's report accompanying this item and above, the City Council finds that it is in the City's best interests to waive advertising and solicitation of proposals or qualifications for the design and implementation of strategies for re-location and/or location of advertising signs within or attached to City-owned properties, and so waives the requirements; and be it

FURTHER RESOLVED: That the City Administrator is authorized to negotiate an agreement with the Berkshire Group for design of a strategy for the location/relocation of outdoor advertising billboards and signs, and assistance negotiating terms and conditions and preparation of franchise agreements with outdoor advertising companies to re-locate and/or to locate outdoor advertising signs within City environs in an amount not to exceed eighty-five thousand dollars (\$85,000); and be it

FURTHER RESOLVED: That tire agreement approved hereunder shall be subject to the City Attorney's approval for form and legality, and a copy shall be filed in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

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