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Office of the City Administrator
P. Lamont Ewell
Interim City Administrator

(510) 238-3301

July 12, 2011

Finance & Management Committee
Oakland City Council
Oakland, California

Chairperson De La Fuente and Members of the Committee:

Re: Report On A Resolution Authorizing The City Administrator To Accept And Appropriate Grant Funds And Award Contracts For The Purchase of Construction Labor And Materials Exceeding \$500,000.00 During The City Council Annual Recess Of 2011

SUMMARY

This report describes the process for handling legislative matters during the City Council Annual Recess of 2011 and requests authorization by the City Council for the City Administrator to accept and appropriate federal grant funds and to take action on procurement of construction labor and materials exceeding \$500,000 during the City Council Annual Recess of 2011.

FISCAL IMPACT

Construction Contracts / Grants

1) Acceptance and appropriation of funds from the Transportation Housing and Urban Development and Related Agencies Appropriation Act of 2010	827,900.00
2) Contractor TBD – MacArthur Boulevard Improvement Project (Project No. C167640)	5,075,351.00
3) Contractor TBD – Installation of New and Modified Traffic Signals at Various Locations (Project Nos. C313710, C318210, C316210)	800,000.00
4) Contractor TBD – Safe Routes to Schools Cycle 7 Project (Project No. C357010)	600,000.00
5) Contractor TBD – The Broadway Intelligent Transportation Systems (ITS) Project (Project No. C270210)	<u>800,000.00</u>
TOTAL	\$8,103,251.00

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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 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 five (5) projects that may be negatively impacted if the City does take action during the City Council recess. The 2011 Summer Recess Resolution has been prepared to authorize the City Administrator to take action during the recess on these projects as follows:

1. *Accept And Appropriate Up To \$827,900.00 Of Transportation, Housing And Urban Development And Related Agencies Appropriation Act Of 2010 Funds For The Lake Merritt Improvement Project*

Funding for the Lake Merritt Improvement Project was requested as part of the City Council approved 2009 Federal Legislation Agenda. This funding will be applied to the existing 12th Street Improvement Project currently under construction at Lake Merritt or to a related eligible project.

Staff has been working with the Caltrans Local Assistance Office to formally obtain these funds, but the process is not yet completed. The Federal budget will probably include large budget cuts. In order to preserve our funding staff would like to have all the documents in place to be able to proceed once the funds are ready to be disbursed.

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2. *Award a Construction Contract to The Lowest, Responsive, Responsible Bidder, For The Construction Of MacArthur Boulevard Improvement Project (Project No. C167640), or to reject all bids if all bids are deemed non-responsive or non-responsible, and award a contract on the open market in accord with the project plans and specifications, up to the amount of Five Million And Seventy Five Thousand Three Hundred And Fifty One Dollars (\$5,075,351.00)*

The proposed work consists, in general, of construction of pedestrian-oriented improvements and amenities, including sidewalk extension and bulb-outs, ADA-compliant curb ramps, sidewalk, curb and gutter, trees, landscaping and irrigation, pedestrian and street lights, asphalt concrete paving, pavement marking and striping, specialty gateway structures; and other work specifically shown on the plans or included in the specifications and special provisions.

The project is funded in part by Federal Funds and Redevelopment Agency Funds. The project must be awarded within 6 months of the date of the Caltans' E-76 approval (April 2011) and to prevent potential loss of redevelopment funds. Approval of the project contract during the Summer Recess is needed to expedite contract execution to allow grant and redevelopment funds to be encumbered.

3. *Award A Construction Contract To The Lowest, Responsive, Responsible Bidder, For The Installation Of New And Modified Traffic Signals At Various Locations (Project Nos. C313710, C318210, C316210) or to reject all bids if all bids are deemed non-responsive or non-responsible, and award a contract on the open market in accord with the project plans and specifications, up to the amount of Eight-Hundred Thousand Dollars (\$800,000.00)*

The proposed work consists of installation of new traffic signals at the intersection of Fruitvale/School, Foothill Boulevard/34th Avenue, High Street/Porter, and improvements to existing traffic signals at San Leandro Street/Seminary Avenue, Webster Street/12th Street and Foothill/Coolidge Avenue intersections. The project will improve safety for all roadway users and improve accessibility for pedestrians and persons with disabilities. The project is funded by Measure B Transportation Funds (Fund 2211).

The project is scheduled to have bids open on July 21, 2011. Approval of the project contract during the Summer Recess will allow the project to start this fall and be completed before the end of the year.

4. *Award A Construction Contract To The Lowest, Responsive, Responsible Bidder, For The Safe Routes To Schools, Cycle 7 Project (Project No. C357010), or to reject all bids if all bids are deemed non-responsive or non-responsible, and award a contract on the open market in accord with the project plans and specifications, up to the amount of Six-Hundred Thousand Dollars (\$600,000.00)*

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The proposed work consists of installation of pedestrian safety measures, including bulb-outs, median refuges, and minor traffic signal modifications along Broadway, 40th Street and MacArthur Boulevard adjacent to Oakland Technical High School and the Castlemont Community of Small Schools.

The project is scheduled to have bids open on July 21, 2011. Approval of the project contract during the Summer Recess will allow the project to start this fall and be completed before the end of the year.

5. *Awarding A Construction Contract To The Lowest, Responsive, Responsible Bidder, For The Broadway Intelligent Transportation Systems (ITS) (Project No. C270210) or to reject all bids if all bids are deemed non-responsive or non-responsible, and award a contract on the open market in accord with the project plans and specifications, up to the amount of Eight-Hundred Thousand Dollars (\$800,000.00)*

The project will interconnect and upgrade traffic signals along Broadway from 5th Street to 27th Street in Downtown Oakland, and will include new controllers, fiber optic conduit and closed circuit cameras. The project will provide a connection to the newly-built Traffic Management Center in Public Works, Transportation Services offices.

The project is scheduled to have bids open on June 30, 2011. Approval of the project contract during the Summer Recess will allow the project to start this fall and be completed before the end of the year.

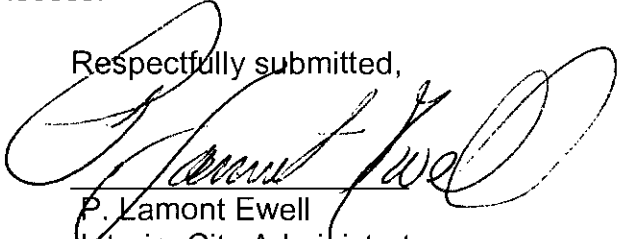
ACTION REQUESTED OF THE CITY COUNCIL

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.

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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 2011 Recess.

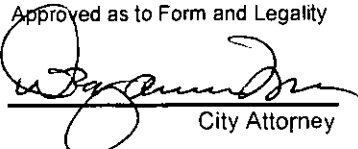
Respectfully submitted,



P. Lamont Ewell
Interim City Administrator

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

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City Attorney

OFFICE OF THE CITY CLERK
CITY OF OAKLAND

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE GRANT FUNDS AND TO AWARD CONTRACTS FOR THE PURCHASE OF CONSTRUCTION LABOR AND MATERIALS EXCEEDING \$500,000.00, TO BE EXECUTED DURING THE CITY COUNCIL ANNUAL RECESS OF 2011, AS FOLLOWS:

1. ACCEPT AND APPROPRIATE UP TO \$827,900.00 OF FEDERAL TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES APPROPRIATION ACT OF 2010 FUNDS FOR THE LAKE MERRITT IMPROVEMENT PROJECT; AND
2. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER, FOR THE CONSTRUCTION OF MACARTHUR BOULEVARD IMPROVEMENT PROJECT (PROJECT NO. C167640), OR TO REJECT ALL BIDS IF ALL BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE, AND AWARD A CONTRACT ON THE OPEN MARKET IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS UP TO THE AMOUNT OF \$5,075,351.00; AND
3. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER, FOR THE INSTALLATION OF NEW AND MODIFIED TRAFFIC SIGNALS AT VARIOUS LOCATIONS (PROJECT NOS. C313710, C318210, C316210), OR TO REJECT ALL BIDS IF ALL BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE, AND AWARD A CONTRACT ON THE OPEN MARKET IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS UP TO THE AMOUNT OF \$800,000.00; AND
4. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER, FOR THE SAFE ROUTES TO SCHOOLS, CYCLE 7 PROJECT (PROJECT NO. C357010), OR TO REJECT ALL BIDS IF ALL BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE, AND AWARD A CONTRACT ON THE OPEN MARKET IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS UP TO THE AMOUNT OF \$600,000.00; AND
5. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER, FOR THE BROADWAY INTELLIGENT TRANSPORTATION SYSTEMS (ITS) (PROJECT NO. C270210), OR TO REJECT ALL BIDS IF ALL BIDS ARE DEEMED NON-RESPONSIVE OR NON-RESPONSIBLE, AND AWARD A CONTRACT ON

THE OPEN MARKET IN ACCORD WITH THE PROJECT PLANS AND SPECIFICATIONS UP TO THE AMOUNT OF \$800,000.00

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 Federal Transportation, Housing And Urban Development And Related Agencies Appropriation Act Of 2010 Funds 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 construction labor and materials; and

WHEREAS, for construction contracts exceeding fifty thousand dollars Oakland Municipal Code section 2.04.050.A and E require staff to advertise a notice inviting bids in the City's Official Newspaper and award, if made, to the lowest responsible, responsive bidder; and

WHEREAS, Oakland Municipal Code section 2.04.050.J authorizes the City Administrator to purchase bid services or supplies on the open market if no valid bids were received after advertising as required by Oakland Municipal Code section 2.04.050.A; and

WHEREAS, the City Council finds that any contracts for services that are described herein are of a professional, scientific, 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; now, therefore, be it

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; now, therefore, be it

RESOLVED: That the City Administrator is authorized to accept and appropriate Transportation, Housing And Urban Development And Related Agencies Appropriation Act Of 2010 Funds for the Lake Merritt Improvement Project; and

FURTHER RESOLVED: That the City Administrator may take any other actions required, including but not limited to executing grant and related agreements, to accept and appropriate said grant funds; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to, during the 2011 Council Summer Recess, award contracts for the purchase of construction labor and materials, or to reject all bids if all bids are deemed non-responsive or non-responsible and

award a contract on the open market in accord with the project plans and specifications, as follows:

Contract for Construction of MacArthur Boulevard Improvement Project (Project No. C167640)

- A contract for the Construction Of MacArthur Boulevard Improvement Project (Project No. C167640) may be awarded the lowest, responsive, responsible bidder in accord with the project plans and specifications in an amount up to \$5,075,351.00, provided the winning contractor's name, actual bid amount and compliance and bid analysis are described in a published agenda report during the Council recess, or
- All bids may be rejected if no viable bids are submitted (all are deemed non-responsive or non-responsible) or are over the engineer's estimate, and a contract for this project may be awarded on the open market in accord with the project plans and specifications in an amount up to \$5,075,351.00, provided the contractor's name, actual bid amount and compliance analysis are described in a published agenda report during the Council recess;

Contract for Installation of New and Modified Traffic Signals at Various Locations (Project Nos. C313710, C318210, C316210)

- A contract for the Installation Of Traffic Signals at Various Locations (Project Nos. C313710, C318210, C316210) may be awarded the lowest, responsive, responsible bidder in accord with the project plans and specifications in an amount not-to-exceed \$800,000.00, provided the winning contractor's name, actual bid amount and compliance and bid analysis are described in a published agenda report during the Council recess, or
- All bids may be rejected if no viable bids are submitted (all are deemed non-responsive or non-responsible) or are over the engineer's estimate, and a contract for this project may be awarded on the open market in accord with the project plans and specifications in an amount up to \$800,000.00, provided the contractor's name, actual bid amount and compliance analysis are described in a published agenda report during the Council recess;

Contract for the Safe Routes to Schools, Cycle 7 Project (Project No. C357010)

- A contract for the Safe Routes to Schools, Cycle 7 Project (Project No. C357010) may be awarded the lowest, responsive, responsible bidder in accord with the project plans and specifications in an amount not-to-exceed \$600,000.00, provided the winning contractor's name, actual bid amount and compliance and bid analysis are described in a published agenda report during the Council recess, or
- All bids may be rejected if no viable bids are submitted (all are deemed non-responsive or non-responsible) or are over the engineer's estimate, and a contract for this project may be awarded on the open market in accord with the project plans and specifications

in an amount up to \$600,000.00, provided the contractor's name, actual bid amount and compliance analysis are described in a published agenda report during the Council recess;

Contract for the Broadway Intelligent Transportation Systems (ITS) (Project No. C270210)

- A contract for the **Broadway Intelligent Transportation Systems (ITS)** (Project No. C270210) may be awarded the lowest, responsive, responsible bidder in accord with the project plans and specifications in an amount not-to-exceed \$800,000.00, provided the winning contractor's name, actual bid amount and compliance and bid analysis are described in a published agenda report during the Council recess, or
- All bids may be rejected if no viable bids are submitted (all are deemed non-responsive or non-responsible) or are over the engineer's estimate, and a contract for this project may be awarded on the open market in accord with the project plans and specifications in an amount up to \$800,000.00, provided the contractor's name, actual bid amount and compliance analysis are described in a published agenda report during the Council recess; and be it

FURTHER RESOLVED: That businesses awarded the above-described contracts shall provide performance and payment bonds for 100% of the contract amount awarded; and be it

FURTHER RESOLVED: That businesses awarded the above-described contracts shall comply with the City's purchasing and construction policies, including but not limited to, local and small, local business participation, local hiring, prevailing wages and **Equal Benefits**; and be it

FURTHER RESOLVED: That the City Attorney shall approve all contracts approved hereunder 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, 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