

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*J. Miller*  
City Attorney

2011 NOV 17 PM 4:22

RESOLUTION NO. 83640 C.M.S.

**RESOLUTION AUTHORIZING A WAIVER OF THE ADVERTISING AND REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS AND A REQUEST TO AUTHORIZE THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KENNEDY AND ASSOCIATES TO INCREASE THE CONTRACT BY AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) FOR A TOTAL CONTRACT AMOUNT OF THREE HUNDRED THOUSAND DOLLARS (\$300,000) FOR ADDITIONAL CIVIL ENGINEERING SERVICES FOR THE FORMER OAKLAND ARMY BASE PROJECT**

**WHEREAS**, the Redevelopment Agency (“Agency”) and the Port of Oakland own respective parcels of the former Oakland Army Base; and

**WHEREAS**, the City may assume ownership of the Agency’s portion of the former Oakland Army Base, including the assumption of assets and liabilities associated with the redevelopment of the property; and

**WHEREAS**, on March 3, 2011, the City Council approved Resolution 83256 C.M.S. authorizing a funding agreement with the Redevelopment Agency of the City of Oakland to provide for Agency funding of City improvements and other redevelopment projects and programs; and

**WHEREAS**, in January, 2010, the Agency executed an Exclusive Negotiating Agreement (“ENA”) with a joint venture entity, ProLogis Property, L.P., and CCIG Oakland Global, LLC (“CCIG”), the potential developer of a portion of the Agency’s Army Base land (“Developer”); and

**WHEREAS**, the ENA requires: (1) CCIG to perform the master planning and design of certain infrastructure work at the Army Base (“Infrastructure Work”); and (2) the Developer to submit detailed plans for design, construction and development of its proposed Army Base project; and

**WHEREAS**, the ENA requires the Agency to review the technical and development submittals of CCIG for the Infrastructure Work, and the submittals of the Developer for its overall Army Base development proposal; and

**WHEREAS**, the Agency and the City do not have staff with expertise to review and advise on CCIG’s technical submissions for the Infrastructure Work, or the Developer’s submittals regarding its overall development proposal; and

**WHEREAS**, at the recommendation of the Public Works Agency, the Agency undertook a formal competitive procurement process, using a Request for Qualifications (“RFQ”) process to solicit, evaluate, and select the most qualified civil engineering team to provide engineering

review and construction management services in connection with Infrastructure Work and the Developer” overall Army Base development proposal; and

**WHEREAS**, on completion of the RFQ process, staff recommended using the team of Kennedy and Associates (“Contractor”) for civil engineering services; and

**WHEREAS**, by way of Agency Resolution No. 2010-0102 C.M.S., approved on August 24, 2010, the Agency Administrator negotiated and executed a Professional Services Agreement with the Contractor (“Contractor’s PSA”) in an amount not to exceed \$150,000; and

**WHEREAS**, staff finds the Contractor’s performance under the Contractor’s PSA has been outstanding;

**WHEREAS**, the Developer is pursuing a design/build approach to meet the Trade Corridor Improvement Fund (“TCIF”) deadline of December 31, 2013 for construction to begin, and so preserve the Port of Oakland’s TCIF award and secure for the City a \$62,000,000 allocation of the award; and

**WHEREAS**, the design/build approach to project delivery proposed by the Developer under the ENA requires staff to have continuous technical support in order to make informed decisions about development issues in a timely manner; and

**WHEREAS**, the City and the Agency lack sufficient personnel with the required expertise to provide continuous technical support for review of the Infrastructure Work, and the Developer’s overall project proposal under the ENAe; and

**WHEREAS**, the Contractor’s PSA amount of \$150,000 is nearly expended and must be increased to assure staff of continuing access to the Contractor’s expertise for another year as the CCIG initiates the design/build process, and to provide staff time to assess the technical assistance that may be needed after the design/build process is underway and to procure such assistance through a competitive process; and

**WHEREAS**, Oakland Municipal Code section 2.04.051.B authorizes the City Council to dispense with advertising and the request for proposal/qualification process for civil engineering services upon a finding that it is in the City’s best interests to do so; and

**WHEREAS**, the City finds that the amendment to Contractor’s contract will be for services of a professional nature, and the services under this contract will be temporary; and

**WHEREAS**, the City finds that the amendment to Contractor’s contract will not result in the loss of employment or salary by any person having permanent status in the competitive service; and

**WHEREAS**, staff recommends that it is in the City’s best interests to waive the advertising and request for proposal/qualifications process for civil engineering services to provide staff with technical support for infrastructure development of the former Oakland Army Base because the support will help the Port preserve its TCIF award and secure for the City a \$62,000,000 allocation of the award; now, therefore, be it

**RESOLVED:** That pursuant to Oakland Municipal Code section 2.04.051 and for the reasons stated above and in the City Administrator’s report accompanying this Resolution, the City Council finds that it is in the City’s best interests to waive advertising and the request for proposal/qualifications process for civil engineering services to provide staff with technical

support regarding the Infrastructure Work, and the Developer's overall development proposal for the Oakland Army Base, and so waives the requirements; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate and execute a Professional Services Agreement on the same general terms as the Contractor's PSA, as further amended pursuant to the terms of the agenda report for this item reflecting an amendment to increase the contract by an amount not to exceed \$150,000 for a total contract amount of \$300,000; and be it

**FURTHER RESOLVED:** That the funds in the amount of \$150,000 for said amendment are budgeted in the OBRA Leasing and Utility Fund (9575), West Oakland Base Reuse Organization (88679), OBRA Leasing and Utility Project (S294210); and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to take whatever other action is necessary to implement the Professional Services Agreement and amendment; and be it

**FURTHER RESOLVED:** That the City Attorney shall review and approve the Professional Services Agreement and amendment authorized hereunder for form and legality, and a copy or copies shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC - 6 2011<sub>20</sub>

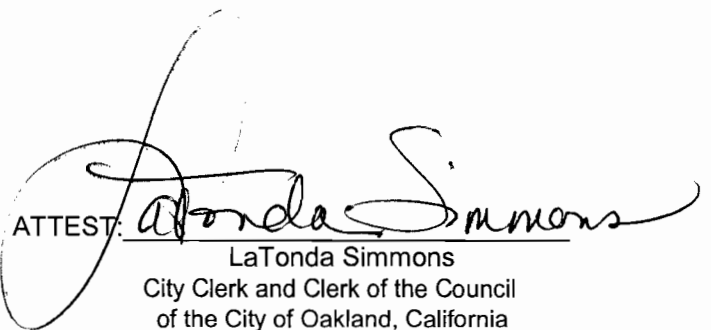
**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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