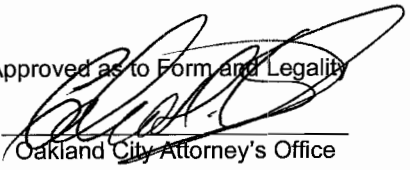


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 FEB 26 PM 3: 57

Approved as to Form and Legality  
  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. 81888 C.M.S.

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**RESOLUTION WAIVING THE RFP/RFQ COMPETITIVE SELECTION PROCESS REQUIREMENTS AND AUTHORIZING AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES CONTRACT WITH T.Y. LIN INTERNATIONAL/EARTHTECH, JOINT VENTURE FOR THE REPLACEMENT OF EMBARCADERO BRIDGE OVER LAKE MERRITT CHANNEL (PROJECT NO. G121810) INCREASING THE SCOPE OF WORK AND THE CONTRACT AMOUNT BY SIX HUNDRED EIGHTY THOUSAND DOLLARS (\$680,000.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED ONE MILLION NINE HUNDRED EIGHTY THOUSAND TWO HUNDRED FORTY-FOUR DOLLARS (\$1,980,244.00)**

**WHEREAS**, on October 25, 1999, the City issued a Request for Proposals (RFP) for professional civil engineering services for the Replacement of Embarcadero Bridge over Lake Merritt Channel Project (Project No. G121810), and five firms responded to the RFP; and

**WHEREAS**, on February 13, 2001, the contract was awarded by Council Resolution No. 76282 C.M.S. to T.Y. Lin International/EarthTech, Joint Venture (previously known as CCS Planning and Engineering/J. Muller International, Joint Venture) for an amount not to exceed \$1,057,050.00 and the contract was fully executed on December 3, 2001; and

**WHEREAS**, the project was delayed due to the National Environmental Policy Act (NEPA) approval process; and

**WHEREAS**, Amendment No. 1 was approved by the City Council on December 20, 2005 extending the duration of the contract until December 31, 2007 and increasing the contract amount by \$243,194.00 to a not-to-exceed amount of \$1,300,244.00 to cover additional costs related to environmental coordination, scope changes, and project management; and

**WHEREAS**, the project was delayed again due to San Francisco Bay Conservation and Development Commission (BCDC) permit approval process; and

**WHEREAS**, Amendment No. 2 was issued on January 1, 2008 to extend the duration of the contract until December 31, 2008 without increase to the contract amount; and

**WHEREAS**, in April 2008, the City received additional federal funds for the project in the amount of \$1,032,468.00 to cover additional design costs, such as additional environmental coordination, additional scope changes and project management; and

**WHEREAS**, the additional grant requires \$289,357.00 in local matching funds; and

**WHEREAS**, the project design is at 80% completion and the final construction documents are scheduled to be completed by December 2009; and

**WHEREAS**, from a liability and practical perspective and based on the circumstances described in the Agenda Report that accompanies this resolution, it is in the City's best interest to waive the Request For Proposal/Request For Qualifications ("RFP/RFQ") competitive selection requirements of Section 2.04.051 A. of the Oakland Municipal Code (the "OMC"), pursuant to OMC Section 2.04.051 B, and have T.Y. Lin International/EarthTech, Joint Venture resume and complete the services under this contract; and

**WHEREAS**, the required balance of funds for the contract is available in the Embarcadero Bridge over Lake Merritt Channel Project (G121810), Department of Transportation Fund (2116), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411) and the Embarcadero Bridge over Lake Merritt Channel Project (G121840), Measure B-ACTIA Fund (2211), Capital Improvement Projects-Streets and Structures Organization (92242), Architectural and Engineering Services Account (54411); and

**WHEREAS**, the City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature; and

**WHEREAS**, the City Council finds that services under contract will be temporary; and

**WHEREAS**, the City Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

**RESOLVED:** That the Council hereby finds and determines that, from a liability and practical perspective and based on the circumstances set forth in the Agenda Report which accompanies this Resolution, it is in the best interest of the City to waive the competitive RFP/RFQ selection requirements of OMC Section 2.04.051 A, pursuant to OMC Section 2.04.051 B, and have T.Y. Lin International/EarthTech, Joint Venture resume and complete the services under this contract; and

**FURTHER RESOLVED:** That the City Administrator, or his designee, is hereby authorized to execute Amendment No. 3 to the contract with T.Y. Lin International/EarthTech, Joint Venture extending the contract and increasing the scope of services and contract by an amount not to exceed six hundred eighty thousand dollars (\$680,000.00), for a total contract amount not to exceed one million nine hundred eighty thousand two hundred forty-four dollars (\$1,980,244.00); and be it

**FURTHER RESOLVED:** That the City Administrator, or his designee, is hereby authorized to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in the total dollar amount of the agreement, provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 31 2009

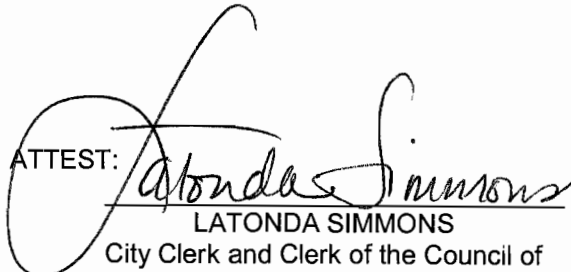
**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, ~~QUAN~~, REID, AND  
PRESIDENT BRUNNER - 7

NOES - 0

ABSENT - Quan - 1

ABSTENTION - 0

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