



City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION:**

**WAIVING FURTHER ADVERTISING, COMPETITIVE BIDDING, AND THE CITY'S SMALL-VERY SMALL LOCAL BUSINESS ENTERPRISE PARTICIPATION REQUIREMENT AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A SOLE SOURCE CONTRACT, WITHOUT RETURN TO COUNCIL, WITH DIABLO ENGINEERING GROUP IN AN AMOUNT NOT TO EXCEED FIVE MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$5,500,000.00), TO PROVIDE TECHNICAL PROJECT MANAGEMENT SUPPORT AND EXPEDITE THE DELIVERY OF CRITICAL MILESTONES FOR THE IMPLEMENTATION OF THE TOWN FOR ALL PROJECTS, SUBJECT TO FUNDING AVAILABILITY.**

**WHEREAS**, the City of Oakland (City) is advancing nearly \$500 million in complex infrastructure to Manage, Design, and Implement Transforming Oakland's Waterfront Neighborhoods (TOWN) For All Transportation Improvements (TOWN for All Projects); and

**WHEREAS**, in 2021, the State of California identified \$279.5 million for Port of Oakland (Port) improvements that facilitate enhanced freight and passenger access and promote the efficient and safe movement of goods and people (State Funding); and

**WHEREAS**, of those funds, \$260 million are expected to be available to support the implementation of many of the improvement projects included in the TOWN for All Projects; and

**WHEREAS**, the State funds must be encumbered by June 30, 2024 and expended by June 30, 2027; and

**WHEREAS**, City staff is actively working with Port staff to coordinate the programmatic elements and implementation plans for the State Funding, which will be received by the Port from the State; and

**WHEREAS**, to meet ambitious deadlines set by the State Funding parameters and timely completion of the TOWN for All Projects, City staff is rapidly increasing resources, both staffing and consultant; and

**WHEREAS**, the City Council previously approved a list of qualified consultants and delegated certain authority to the City Administrator to enter into contracts with consultants on this list (On Call List), as needs are identified by the City Administrator; and

**WHEREAS**, the Diablo Engineering Group (Diablo) is a State-certified disadvantaged business enterprise (DBE), a woman-owned business that is a certified small local business, headquartered in Oakland and on the On-Call List; and

**WHEREAS**, Diablo has qualified for the On Call List numerous times, demonstrating its ability to meet the City's qualifications; and

**WHEREAS**, the City Administrator has engaged Diablo to provide critical project support in developing cost estimates and funding strategies for the TOWN for All Projects; and

**WHEREAS**, the existing contract authority delegated to the City Administrator for On Call List has been expended with respect to Diablo; and

**WHEREAS**, Oakland Municipal Code (OMC) section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsible, responsive bidder if award is made; and

**WHEREAS**, OMC Section 2.04.050.I.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interest of the City to do so; and

**WHEREAS**, the City's 25% small or very small local business enterprise (S/VSLBE) participation requirements may apply to certain contract awards; and

**WHEREAS**, Diablo is intimately familiar with the TOWN for All Projects and can maximize time and resources in order to accelerate projects and best position the City for success to meet the requirements of the State Funding; and

**WHEREAS**, procuring a qualified consultant through a competitive bidding process would cause significant delays in the City's ability to complete the requisite tasks for the TOWN for All Projects and prevent the City from meeting the stringent State Funding deadlines; and

**WHEREAS**, staff seeks to keep utilizing Diablo for the TOWN for All Projects and requests that the City Council delegate authority to the City Administrator to enter into a contract with Diablo in an amount not to exceed five million, five hundred thousand dollars (\$5,500,000.00); and

**WHEREAS**, the proposed Diablo contract amount is less than 5% of the total anticipated costs for City staff and consultants to perform services (design, environmental, permits and construction) needed to deliver the overall Town for All Projects; and

**WHEREAS**, the City will utilize various sources of funding to support the cost Diablo's contract; and including \$39 million in grants already awarded to the City and \$288 million in grants anticipated to be received by the City; now, therefore, be it

**RESOLVED:** That the City Council hereby waives the 25% S/VSLBE requirement, if applicable, finds and determines that it is in the best interest of the City to waive advertising and competitive bidding per OMC Section 2.04.050.I.5, and authorizes the City Administrator to negotiate and enter into a sole source contract, without return to City Council, with Diablo Engineering Group in an amount not to exceed

five million, five hundred thousand dollars (\$5,500,000.00), to provide technical project management support and expedite the delivery of critical milestones for the implementation of the TOWN for All Projects and be it.

**FURTHER RESOLVED:** the City Administrator’s authority granted herein is subject to funding availability, and the City Administrator may not contract with Diablo for any amount in excess of and/or time period beyond available funding sources; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED  
City Clerk and Clerk of the Council of the City of Oakland,  
California