

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 DEC -4 PM 6:15

**CITY OF OAKLAND**  
**OFFICE OF THE CITY ATTORNEY**

**MEMORANDUM**

TO: City Council

FROM: John Russo, City Attorney



DATE: December 9, 2008

RE: RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A TWO YEAR PROFESSIONAL SERVICES AGREEMENT, WITH TWO ONE-YEAR OPTIONS FOR RENEWAL, WITH CIVICORPS SCHOOLS FOR IMPLEMENTATION OF THE EXCESS LITTER FEE PROGRAM IN AN AMOUNT NOT TO EXCEED \$400,000.00 EACH YEAR

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We submit this memorandum pursuant to Oakland Municipal Code section 2.20.080(G), which allows the City Attorney's Office to conform a document to comply with technical requirements as to legality.

We are concerned that the language of the proposed legislation has an ambiguity that might cause violation of the City Charter's Non-interference Clause. (City Charter section 218.)

. . . . [N]or shall [the Council] attempt to coerce or influence the City Administrator or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; . . . . Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member.

As originally drafted, the resolution (the first FURTHER RESOLVED paragraph) could be read to give a Councilmember veto power over or the power to direct the City Administrator's administration of the Citycorps Schools contract.

The attached document has our edits to make clear that the City Council does not intend to violate the City Charter's Non-interference Clause. Councilmember Brunner's Office concurs with the edits.

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REVISED - 12/2/08

Approved as to Form and Legality

*L. Gordon*  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A TWO YEAR PROFESSIONAL SERVICES AGREEMENT, WITH TWO ONE-YEAR OPTIONS FOR RENEWAL, WITH CIVICORPS SCHOOLS FOR IMPLEMENTATION OF THE EXCESS LITTER FEE PROGRAM IN AN AMOUNT NOT TO EXCEED \$400,000.00 EACH YEAR**

**WHEREAS**, on February 21, 2006, the City Council adopted Ordinance No. 12727 C.M.S. establishing the Excess Litter Fee Program; and

**WHEREAS**, a Request for Proposals for continued implementation of the Excess Litter Fee Program was issued on July 22, 2008 with seven proposals received on September 8, 2008; and

**WHEREAS**, staff evaluated all proposals received and selected Civicorps Schools as the most qualified to provide this service to the City; and

**WHEREAS**, the City Council finds and determines that this contract is professional, scientific or technical and temporary in nature, and the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**WHEREAS**, the total Excess Litter Fee Program is funded from revenues collected from the Excess Litter Fee which are deposited to the Excess Litter fee Fund (fund 2417); now, therefore be it

**RESOLVED:** That the City Administrator is authorized to execute an agreement, subject to the review and approval of the City Attorney, with Civicorps Schools for implementation of the Excess Litter Fee Program for a two year period with an option to renew for two additional one-year periods in an amount not to exceed four hundred thousand dollars (\$400,000.00) each year; and be it

**FURTHER RESOLVED:** That the contractor is responsible for the removal of litter from sidewalks, gutters, storm drains and tree wells on a year-round basis, with litter collected from the designated areas a minimum of two times per week, with litter being collected three times per week if a) the City Administrator, ~~after in consultation with the relevant Councilmember, opts to decrease the number of blocks in a particular district or b) the City Administrator determines that collection can be done three times per week in a particular district; and be it~~

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**FURTHER RESOLVED:** That the contractor shall track and record the number of bags of litter collected from each location daily and prepare accurate, detailed monthly written reports for submittal to the Office of the City Administrator within 15 days after the end of each calendar month; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to exercise the option to renew the agreement for two additional one year periods without return to Council, provided that such option shall be subject to a signed contract amendment, review and approval of the City Attorney and filed with the City Clerk's office.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

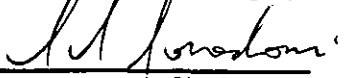
NOES -

ABSENT -

ABSTENTION -

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

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IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

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