



City Attorney

# OAKLAND CITY COUNCIL

RESOLUTION No. 83297 C.M.S.

OFFICE OF THE CITY CLERK  
OAKLAND  
2011 MAR 29 PM 6:13

**RESOLUTION AUTHORIZING:**

**(1) THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT BETWEEN THE CITY OF OAKLAND AND AMB PROPERTY, L.P./CALIFORNIA CAPITAL GROUP (AMC/CCG) FOR A DEVELOPMENT ON THE FORMER OAKLAND ARMY BASE WITHOUT RETURNING TO CITY COUNCIL; AND**

**(2) A WAIVER OF THE ADVERTISING AND REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS AND AN AWARD OF THE PLANNING AND DESIGN OF INFRASTRUCTURE IMPROVEMENTS FOR THE PORT-ORIENTED RAILYARD AND 7<sup>TH</sup> STREET OVERPASS WORK, IN AN AMOUNT NOT-TO-EXCEED \$3,850,212, TO CCG**

**WHEREAS**, the Redevelopment Agency of the City of Oakland (“Agency”) owns parcels of the former Oakland Army Base (“Base”); and

**WHEREAS**, the City of Oakland (“City”) may assume ownership of the Agency’s Base properties, including the assumption of assets and liabilities associated with the economic redevelopment of the property; and

**WHEREAS**, the Agency adopted Resolution 2010-0088 C.M.S, authorizing the establishment of the Army Base Joint Infrastructure Development Fund in the initial amount of \$16,300,000 specifically for the development of infrastructure on the Base; and

**WHEREAS**, the Agency has been awarded a \$2,000,000 TIGER II grant from the U.S. Department of Transportation, \$1,600,000 of which will go directly towards infrastructure planning and design for the Base, with a match requirement of up to \$3,010,000; and

**WHEREAS**, the Oakland Army Base Reuse Plan and 2002 Environmental Impact Report document the need to install all new public utilities and streets to serve new development of the former Oakland Army Base; and

**WHEREAS**, the Request for Proposals issued by the Agency that subsequently led to the selection of AMB Property, L.P./California Capital Group (AMB/CCG) clearly articulated the expectation that the master developer would be responsible for all aspects of the development of the Army Base site including site planning, engineering, and other pre-development activities; and

**WHEREAS**, on January 19, 2009, the Agency executed an Exclusive Negotiating Agreement (ENA) with AMB/CCG for the potential redevelopment of a portion of the former Army Base identified as the Gateway Development Area and which included all of the Central and West Gateway Areas and part of the East Gateway Area; and

**WHEREAS**, on July 20, 2010, the Agency and AMB/CCG entered into a First Amendment to the ENA to allow the Agency to contract with a consultant to prepare all documentation necessary for environmental review under the California Environmental Quality Act (CEQA), and to share the costs of that contract with AMB/CCG; and

**WHEREAS**, the environmental review which is necessary for final approval to redevelop the Army Base is still underway; and

**WHEREAS**, extensive planning and design work for areas outside the ENA Development Area is required for the planning and design of the ENA Development Area; and

**WHEREAS**, the infrastructure improvements for the Port-oriented Railyard and 7<sup>th</sup> Street Overpass are not essential to the planning and design of the ENA Development Area but are necessary to preserve the \$242,000,000 in Trade Corridor Improvement Funds (TCIF) which were awarded to the Port of Oakland but may be lost if the Railyard and the 7<sup>th</sup> Street Overpass are not designed in a timely manner; and

**WHEREAS**, the Amended and Restated Memorandum of Agreement between the Agency and the Port contemplates a unified approach to the design of the Army Base; and

**WHEREAS**, the Cost Sharing Agreement pending between the Agency and the Port calls for the Agency to invest \$14,100,000 toward the design of the entire Army Base, including the Railyard and the 7<sup>th</sup> Street Overpass, in exchange for the Port supporting a \$62,000,000 allocation of the TCIF award for infrastructure development in the Agency-owned portion of the Base; and

**WHEREAS**, planning and design work that is not essential to the ENA Development Area should be awarded pursuant to the City's purchasing processes – advertising and request for proposal/qualifications requirements, unless the City Council determines that it is in the City's best interests to waive such these processes; and

**WHEREAS**, the ENA required AMB/CCG to propose a Development Team, Scope, Schedule, and Budget for the planning and design work required for the construction of infrastructure, public utilities, and public streets on the former Army Base; and

**WHEREAS**, the partnership agreement between AMB and CCG designates CCG as the party responsible for the planning and design work for the Base's infrastructure, public utilities, and public streets; and

**WHEREAS**, CCG has submitted the required proposal that includes a Budget of \$14,100,000 for master planning public infrastructure improvements for the former Army Base; and

**WHEREAS**, the Budget includes \$3,850,212 for the planning and design of infrastructure improvements for the Port-oriented Railyard and the 7<sup>th</sup> Street Overpass; and

**WHEREAS**, CCG's proposed Development Team is ready to begin preparing infrastructure planning and design documents for the Army Base and use of this Development Team is the surest and most timely way to accomplish the work and meet state and federal funding deadlines; and

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

**WHEREAS**, staff recommends that it is in the City’s best interests to waive the advertising and request for proposal/qualifications process for the planning and design of infrastructure improvements for the Port-oriented Railyard and 7<sup>th</sup> Street Overpass work because the work will help the Port preserve its TCIF award and secure for the Agency a \$62,000,000 allocation of the award; and

**WHEREAS**, the City Administrator has determined that the Port planning and design work awarded hereunder is of a professional, scientific or 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; and

**WHEREAS**, the Agency established a Joint Infrastructure Development Fund (9572) with \$16,300,000 for the development of the former Oakland Army Base, including the planning and design of public improvements; and

**WHEREAS**, \$3,010,00 of the Joint Infrastructure Development Fund (9572), Infrastructure Master Plan Project (S415820) has been appropriated as match funding for a TIGER II grant award, and both the match and \$1,600,000 of the TIGER II grant are sources of funding for the Base infrastructure planning and design work; and

**WHEREAS**, if tax increment from Fund (9570) were used in lieu of Fund (9572) as the source of match funding for the TIGER II grant, then additional funds would be available for the development of Base infrastructure; now therefore be it

**RESOLVED:** That the City Administrator is authorized to negotiate and execute an Exclusive Negotiating Agreement (“City ENA”) with AMB/CCG for a development on the Base on the same general terms as the ENA between the Agency and AMB/CCG, as amended by the First Amendment, and the terms of a proposed Second Amendment to the ENA, as described in the Agenda Report, the Supplemental Agenda Report, and the Agency Resolution for this item, without returning to City Council; and be it

**FURTHER RESOLVED:** That staff shall bring back to the CED Committee and the City Council a progress report regarding ENA implementation approximately six (6) months before the ENA Term is set to expire; and

**FURTHER RESOLVED:** That the City ENA shall provide for: (A) reimbursement to CCG’s third-party consultant costs up to a maximum amount of \$14,100,000 for the planning and design work for the Base’s Infrastructure, Public Utilities, and Public Streets, and (B) approval of CCG’s Proposal for a Development Team, Scope of Work, Budget, and Schedule for the Planning and Design Work; and be it

**FURTHER RESOLVED:** That up to \$14,100,000 will come from following sources and be appropriated into new Projects to be established in Fund (9572):

- \$9,490,000 from the Joint Infrastructure Development Fund (9572), Oakland Army Base Organization (88679), Army Base Joint Infrastructure Development Project (S415810)
- \$3,010,000 from the Joint Infrastructure Development Fund (9572), Oakland Army Base Organization (88679), Infrastructure Master Plan Project (S415820)
- \$1,600,000 from OBRA Federal and State Grant Fund (9577), Oakland Army Base Organization (88679), Infrastructure Master Plan Project (S433810)

and be it

**FURTHER RESOLVED:** That the City through its role as the successor to the Redevelopment Agency of the City of Oakland shall appropriate and allocate up to \$3,010,000 in Army Base Redevelopment Area Tax funds (9570) over the course of FY 2010-2011 through FY 2017-2018 and replace Fund (9572) Project (S415810) as the match funding source for the TIGER II grant award; and be it

**FURTHER RESOLVED:** That the City shall maintain control over the infrastructure master planning process and AMB/CCG cannot proceed with planning for Port elements, such as the Railyard and 7<sup>th</sup> Street Overpass, until directed to do so by City staff; and be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code section 2.04.051.B 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 the planning and design of infrastructure improvements for the Railyard and the 7<sup>th</sup> Street Overpass, and so waives the requirements; and be it

**FURTHER RESOLVED:** That the planning and design of infrastructure improvements for the Railyard and the 7<sup>th</sup> Street Overpass work is awarded to CCG in an amount not-to-exceed \$3,850,212 and be it

**FURTHER RESOLVED:** This action is exempt from the requirements of the California Environmental Quality Act (CEQA) for the reasons stated in the City Council Agenda Report, and the Environmental Review Officer shall cause to be filed appropriate Notices of Exemption/Determination; and be it

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

**FURTHER RESOLVED:** That the City Attorney shall review and approve the agreement(s) authorized hereunder for form and legality and a copy or copies shall be placed on file in the Office of the City Clerk.

APR 5 2011

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

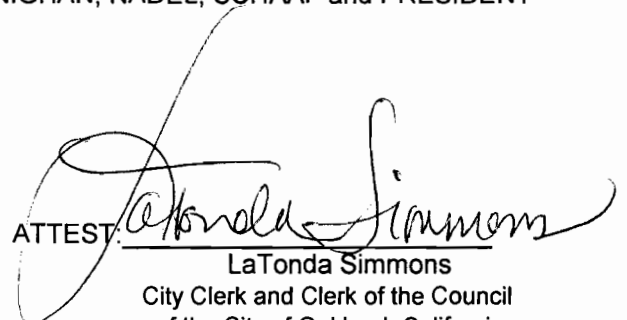
AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

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