

2005 MAY -5 PM 12:19

1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Auditor  
Roland E. Smith, CPA  
City Auditor

(510) 238-3378  
FAX (510) 238-7640  
TDD (510) 839-6451  
www.oaklandauditor.com

MAY 10, 2005

IGNACIO DE LA FUENTE, PRESIDENT  
CITY COUNCIL  
OAKLAND, CALIFORNIA

PRESIDENT DE LA FUENTE AND MEMBERS OF THE CITY COUNCIL

**SUBJECT: RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT FOR TWO YEARS FOR AN AMOUNT NOT TO EXCEED \$300,000 WITH THE LAKE MERRITT INSTITUTE FOR CLEANUP AND MONITORING SERVICES FOR LAKE MERRITT FROM JUNE 1, 2005 TO MAY 31, 2007**

---

**PURPOSE AND SCOPE**

In accordance with the Measure H Charter Amendment, which was passed by the voters at the General election of November 5, 1996, we have made an impartial financial analysis of the accompanying Proposed Resolution and Agenda Report. In making our analysis, we also asked for additional information and clarification from City staff.

The City Auditor is elected by the citizens of Oakland to serve as an officer in charge of an independent department auditing City government activities. The independence of the City Auditor is established by the City Charter.

Since the Measure H Charter Amendment specifies that our impartial financial analysis is for informational purposes only, we did not apply Generally Accepted Government Auditing Standards as issued by the Comptroller General of the United States. Moreover, the scope of our analysis was impaired by Administrative Instruction Number 137, effective May 21, 1997, which provides only two (2) weeks for us to plan, perform and report on our analysis. Due to this time constraint, we did not verify data contained in the Proposed Resolution and Agenda Report.

**BACKGROUND**

The Lake Merritt Institute has provided clean up services in and around Lake Merritt under contract with the City beginning in December 1996. The Lake Merritt Institute (LMI) also provided other services under the terms of the contract, such as maintaining bulletin boards and providing educational programs about preventing pollution to Lake Merritt.

Lake Merritt is on the State of California Impaired Water Body List due to high volumes of trash in the lake and the water's low dissolved oxygen levels. LMI has been working to minimize these negative effects in part through:

- 1) coordinating volunteers to remove debris from the lake;
- 2) participating in Earth Day and Creek to Bay Day;
- 3) removing algae with nets;
- 4) maintaining three aeration fountains that enhance oxygen levels in the water; and
- 5) raising public awareness of storm water runoff into the lake.

Staff of the Public Works Agency, Environmental Services Division, has been monitoring and enforcing these and other operational components of the contract since 2003. The new contract will serve as one means to achieve the goal of removing Lake Merritt from the impaired water body list.

**FISCAL IMPACT**

As stated above, LMI has provided clean up services in and around Lake Merritt beginning in December 1996. The contract was originally set to expire in May 1997, but through a series of amendments, was renewed six times. The amendments extended the funding and gradually expanded the scope of services the Lake Merritt Institute would perform for the lake.

The amount of the contract has grown from \$42,967 at the inception of the contract to \$951,725 as summarized below:

<b>Resolution No.</b>	<b>Period of Contract or Contract Extension</b>	<b>Length in Months</b>	<b>Amount Approved Not to Exceed</b>
73064 C.M.S.	12/1996 to 5/1997	6 months	\$ 42,967
73589 C.M.S.	6/1997 to 5/1998	12 months	78,505
74356 C.M.S.	6/1998 to 5/1999	12 months	83,581
75103 C.M.S.	6/1999 to 5/2000	12 months	98,451
75762 C.M.S.	6/2000 to 5/2001	12 months	99,589
76528 C.M.S.	6/2001 to 5/2004	36 months	397,062
78696 C.M.S.	6/2004 to 5/2005	12 months	151,570
<b>Amount Approved to Date</b>			<b>\$951,725</b>

In June 2004, staff proposed that the contract be extended for an additional three years from June 2004 through May 2007. As stated in our previous financial analysis reports to the Council dated June 8, 2004 and July 13, 2004, the original contract and the first five contract extensions were not put out to competitive bid. Accordingly, the Council approved the sixth amendment extending the contract for only one year instead of three.

Approval of the Proposed Resolution will result in a new contract with LMI that will replace the previous contract and six amendments:

<b>Resolution No.</b>	<b>Period of Contract</b>	<b>Length in Months</b>	<b>Amount Approved Not to Exceed</b>
Proposed	6/2005 to 5/2007	24 months	\$ 300,000

### **CONTRACTOR SELECTION PROCESS**

#### **Request for Qualifications**

At the June 8, 2004 Public Works Committee meeting, the Council directed staff to return with a comparison between issuing a Request for Qualifications or a Request for Proposals in preparing a new contract. Staff responded with a report at the July 13, 2004 Public Works Committee meeting, which states in part:

“The contract to clean Lake Merritt includes a broad scope of work that requires a diverse set of skills and knowledge...An RFQ process will help determine whether there are other qualified firms that can demonstrate this unique combination of skills. An RFQ process will also assist to establish the minimum acceptable threshold for qualifications for this contract. Once the RFQ process is completed a contract would be negotiated with the highest qualified firm and staff will return to City Council for authorization to award the contract.” (Page 4)

According to staff, at this meeting the Council directed them to negotiate a contract directly from the Request for Qualifications process in preparing a new contract beyond the May 2005 expiration.

#### **Selection**

Staff issued an RFQ for the Lake Merritt debris removal and water-quality monitoring services to over 200 individuals and organizations, and also advertised in the *Oakland Tribune*. Two firms responded: 1) Lake Merritt Institute, a non-profit corporation and 2) Clean Lakes, Inc., a for-profit corporation.

The qualifications panel reviewing the submissions consisted of four individuals represented by:

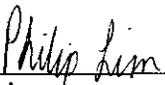
- Public Works Agency, Environmental Services Division (2)
- Public Works Agency, Project Delivery Division (1)
- Alameda County Public Works Agency (1)

The panel determined both firms were qualified. However, the Lake Merritt Institute received the highest score, and staff subsequently entered into contract negotiations.

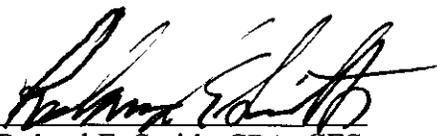
**CONCLUSION**

The Proposed Resolution would authorize award of the new contract to the Lake Merritt Institute through a Request for Qualifications process. The series of contract extensions without any form of competition has been interrupted.

Prepared by:

  
Philip Lim  
Deputy City Auditor

Issued by:

  
Roland E. Smith, CPA, CFS  
City Auditor

Report completion date:  
May 3, 2005