

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 JAN 29 PM 1:02

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: February 10, 2004

RE: Resolution amending Resolution No. 78202, C.M.S., which authorized the Spanish Speaking Unity Council ("Unity Council") to develop, design, and manage soil remediation and construction of improvements, to further authorize the City Manager to execute remediation and other construction agreements with contractors selected by Unity Council for the Union Point Park Project in an amount not to exceed the project construction budget, said amount to be determined by Unity Council and shall not exceed available total project funds of eight million six hundred eighty-four thousand dollars (\$8,684,000).

SUMMARY

The Council is requested to amend Resolution No. 78202, C.M.S., to authorize the City Manager to execute remediation and other construction agreements with contractors selected by Unity Council for the Union Point Park Project in amounts not to exceed the available total project funds of eight million six hundred eighty-four thousand dollars (\$8,684,000). Resolution No. 78202, C.M.S., approved by the Council on Nov. 18, 2003, authorized the City Manager to accept and appropriate a contribution of funds from the Spanish Speaking Unity Council ("Unity Council") and to execute a master agreement with the Unity Council to develop, design, and manage soil remediation and construction of improvements for the Union Point Park. The report accompanying the resolution in November 2003 indicated that construction contract awards for the project would be brought forth separately to the Council for approval in the future. This report requests amendment of the resolution in order to authorize the City Manager also to execute the remediation and other construction agreements necessary to complete the project based on the Unity Council's selection.

FISCAL IMPACT

The Union Point Park project has total funding of \$8,684,000 available through various funding sources controlled by the City of Oakland or Unity Council. Total funding controlled by the City of Oakland is \$5,909,000, of which \$5,634,553 is currently available. The City's Public Art and Contract Compliance assessments will be set aside in the appropriate accounts, based on the amounts of the construction contract.

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Total funding available through Unity Council is \$2,775,000, of which \$720,000 has been expended for Master Plan development and park design. Funding of \$1,555,000 from California State Coastal Conservancy (CSCC) is earmarked for the construction of the project.

From the total project funds of \$8,684,000, the construction budget allocated for the project is \$6,474,000.

As a condition of receiving the funds, the Unity Council, as well as the San Francisco Bay Trails Program and CSCC require a maintenance commitment agreement from the City, since the City will ultimately be responsible for the maintenance and operation of the park. The City will be required to provide a maintenance commitment agreement before completion of the project, as was specified in staff's last agenda report to Council, dated November 18, 2003, which authorized the master agreement with Unity Council under Resolution 78202, C.M.S.

Full maintenance and operational costs for the new Union Point Park are not identified at this time. A preliminary estimate of probable operation and maintenance cost for the proposed Union Point Park is approximately \$100,000 - \$120,000 per annum. Staff will refine the estimated maintenance and operational cost upon completion of the project design and provide the information for the Budget Office to incorporate the costs in future budget plans as appropriate.

BACKGROUND

Union Point Park is a project identified in the City's FY 2003-2008 Capital Improvement Program. Unity Council received grant funding from the California State Coastal Conservancy (CSCC) that enabled Unity Council to begin design for the project. The City approved a resolution (No. 75774 C.M.S.) in September 2000 for Unity Council to develop the master plan and the design for the Union Point Park project. Unity Council used CSCC funding to develop the park master plan and design development of the Park. Subsequently, on September 30, 2003, City Council approved and amended Unity Council's initial design contract to provide \$149,920 from available City project funds in addition to Unity Council's CSCC funding to allow the Unity Council to complete the design plans and specifications for the first phase of the development. The project has sufficient funding to proceed with construction implementation.

The park contains three parcels of land totaling approximately nine acres of waterfront property located along the Embarcadero, which is leased long term from the Port of Oakland. The first part of the park for development consists of six acres known as Parcel One. The improvements will include new restroom facilities, open-space playing fields, children's playground, waterfront trails, picnic and barbeque areas, parking lot, multipurpose play courts, and community gathering spaces, etc. Design of the remaining three acres is not yet in development and is scheduled for a subsequent phase.

Unity Council will manage, develop the project, design, and manage soil remediation and construction of improvements. The proposed project is to be constructed in two phases. Phase

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One of the project will be limited to site grading, soil contamination remediation, and development of two parking lots. Phase Two will complete the park with improvements including open space, pedestrian bridge, pathways, trails, a picnic area with tables and benches, children's play area with play equipment, landscaping and plantings, a new restroom, and site accessories.

The Union Point Park project supports Council's Goal #3 to Improve Oakland Neighborhoods; #6 to Maintain and Enhance Oakland's Physical Assets; #4 for Support of Youth, and #7 to Inspire Creativity and Civic Engagement.

KEY ISSUES AND IMPACTS

On November 18, 2003, Council authorized Unity Council to provide full project management services to complete development and design work, complete preparation of plans and specifications for construction of improvements, advertise and bid soil remediation and construction of improvement work, analyze bids and select remediation and construction contractors, and manage and administer contracts for the remediation and construction of improvements. Public entities are required under state law to enter into direct contracts with licensed general contractors for remediation and construction of improvements. Therefore, the City rather than the Unity Council would be required to execute the remediation and construction agreements directly with the contractors. The Council is now requested to authorize the City Manager to execute remediation and other construction agreements with contractors selected by Unity Council for the Union Point Park Project in a total amount not to exceed the project construction budget, which shall be determined by Unity Council through the course of managing the project, but such budget shall not exceed the total available project fund total of \$8,684,000.

Unity Council will, in coordination with City Manager's Office Contract Compliance Division, advertise, bid and analyze construction contracts in accordance with the City's public notification, bidding, and contract program requirements, including but not limited to advertisement, Local Business and Small Local Business Enterprise, and Unity Council will select and recommend award to the lowest responsive, responsible bidders.

In the implementation of the project, it may be necessary to reject and re-bid or negotiate contracts for the remediation and construction of the project to keep the project on schedule to meet grant fund deadlines. Unity Council will, if necessary, reject and re-bid or negotiate contracts in accordance with City's contracting procedures which provide for rejection of bids and re-bidding or negotiation if bids are over budget, if no valid bids are received or if further bidding will be impracticable, unavailing or impossible.

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SUSTAINABLE OPPORTUNITIES

Economic: The project can provide additional employment opportunities during the construction of the facility.

Environmental: The project design will incorporate sustainability design and recycled-content materials to the extent possible. The construction of the project will comply with the City's mandate for construction waste reduction and recycling.

Social Equity: The project will provide new amenities for recreational use to the community, including at-risk youth, as well as improve the quality of the environment, and emphasize the waterfront as an asset of the City.

DISABILITY AND SENIOR CITIZEN ACCESS

The developed park will comply with the California Code of Regulations, Title 24 and ADA Accessibility Guidelines. This includes physical features for disability access, disabled parking spaces, accessible walkways, restrooms, drinking fountains, and accessible children's play areas, etc.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that the Council amends Resolution No. 78202, C.M.S., and authorizes the City Manager or her representative to execute remediation and other construction agreements with contractors selected by Unity Council for the Union Point Park Project in an amount not to exceed the project construction budget as determined by Unity Council and shall not exceed available total project funds of eight million six hundred eighty-four thousand dollars (\$8,684,000).

By amending the resolution, the City will allow Unity Council to complete the project in an expeditious manner and to meet grant fund deadlines.

ACTION REQUESTED OF THE CITY COUNCIL

City Council is requested to approve the resolution to amend Resolution No. 78202, C.M.S. and authorize execution of remediation and construction contracts for the Union Point Park project as specified above.

Respectfully submitted,



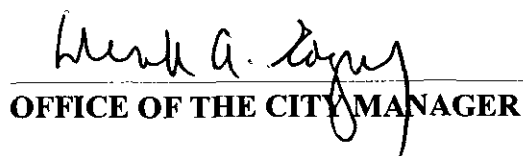
CLAUDETTE R. FORD
Director, Public Works Agency

Reviewed by:

Raul Godinez II
Assistant Director
Public Works Agency

Prepared by:
Lily Soo Hoo, C.I.P. Coordinator
Project Delivery Division
Public Works Agency

APPROVED AND FORWARDED
TO THE LIFE ENRICHMENT
COMMITTEE



OFFICE OF THE CITY MANAGER

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OAKLAND CITY COUNCIL

OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION No. _____

C.M.S. 2004 JAN 29 PM 1:02

INTRODUCED BY COUNCILMEMBER _____



RESOLUTION AMENDING RESOLUTION NO. 78202, C.M.S., WHICH AUTHORIZED THE SPANISH SPEAKING UNITY COUNCIL (“UNITY COUNCIL”) TO DEVELOP, DESIGN, AND MANAGE SOIL REMEDIATION AND CONSTRUCTION OF IMPROVEMENTS, TO FURTHER AUTHORIZE THE CITY MANAGER TO EXECUTE REMEDIATION AND OTHER CONSTRUCTION AGREEMENTS WITH CONTRACTORS SELECTED BY UNITY COUNCIL FOR THE UNION POINT PARK PROJECT IN AN AMOUNT NOT TO EXCEED THE PROJECT CONSTRUCTION BUDGET, SAID AMOUNT TO BE DETERMINED BY UNITY COUNCIL AND SHALL NOT EXCEED AVAILABLE TOTAL PROJECT FUNDS OF EIGHT MILLION SIX HUNDRED EIGHTY-FOUR THOUSAND DOLLARS (\$8,684,000).

WHEREAS, the City contracted with Spanish Speaking Unity Council (Unity Council) in October, 2000, to develop and design improvements and to prepare soil remediation plans and specifications; and

WHEREAS, in November 18, 2003, the Council approved a further agreement to authorize Unity Council to complete development and design work, complete preparation of plans and specifications for construction of improvements, advertise and bid soil remediation and construction of improvement work, to analyze bids and select remediation and construction contractors and to manage and administer contracts for remediation and construction of improvements; and

WHEREAS, public entities are required under state law to enter into direct contracts with licensed general contractors for remediation and construction of improvements, the Unity Council is not a licensed construction contractor, therefore, the City will execute the remediation and construction agreements; and

WHEREAS, the Unity Council has agreed to advertise, bid and analyze said construction contracts in accord with the City’s advertising, bidding and contract program requirements including, but not limited to, Local Business Enterprise and Small Local Business Enterprise, and Unity Council will select and recommend award to the lowest responsive, responsible bidders; and

WHEREAS, it may be necessary to reject and rebid or negotiate remediation and construction contracts to meet grant fund deadlines and keep the project on schedule; and

WHEREAS, Unity Council has agreed that rejection and rebidding or negotiated contracts, if necessary, will be done in accord with City’s contracting procedures which provide for rejection of bids and rebidding or negotiation if the bids are over the budget or no valid bids are received or if further bidding will be impracticable, unavailing or impossible; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work remediation and construction work; and

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WHEREAS, the City Council finds and determines that the performance of the remediation and construction contracts is in the public interest because of economy or better performance; and

WHEREAS, the City Council finds and determines that the performance of contracts hereunder shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now, therefore, be it

RESOLVED: That the City Manager is hereby authorized to execute remediation and construction agreements with contractors selected by the Unity Council for the Union Point Park project to perform work in accord with the City-Unity Council project agreements for remediation and construction of improvements to Union Point Park, in a total amount not to exceed the total Union Point Park project remediation and construction budgets of eight million six hundred eighty four thousand dollars (\$8,684,000.00), without return to the City Council; and, be it

FURTHER RESOLVED: That to meet grant deadlines and keep the project on schedule, the City Manager is hereby authorized to reject all bids deemed non-responsive, non-responsible, invalid or over the budget by the Unity Council per the City's regulations and programs, and to enter into remediation and construction agreements that have been rebid or negotiated by Unity Council, with contractors selected by Unity Council, without return to Council; and, be it

FURTHER RESOLVED: That said remediation and construction contracts executed by the City Manager, hereunder, shall first be reviewed and approved by the City Attorney for form and legality; and, be it

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FURTHER RESOLVED: That the approval of this resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California 6

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