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Approved as to form and legality


Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND
2011-0066

Resolution No. _____ C.M.S.

RESOLUTION AUTHORIZING A WAIVER OF THE ADVERTISING AND REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS AND A REQUEST TO AUTHORIZE THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KENNEDY AND ASSOCIATES TO INCREASE THE CONTRACT BY AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) FOR A TOTAL CONTRACT AMOUNT OF THREE HUNDRED THOUSAND DOLLARS (\$300,000) FOR ADDITIONAL CIVIL ENGINEERING SERVICES FOR THE FORMER OAKLAND ARMY BASE PROJECT

WHEREAS, the Redevelopment Agency (“Agency”) and the Port of Oakland own respective parcels of the former Oakland Army Base; and

WHEREAS, in January, 2010, the Agency executed an Exclusive Negotiating Agreement (“ENA”) with a joint venture entity, ProLogis Property, L.P., and CCIG Oakland Global, LLC (“CCIG”), the potential developer of a portion of the Agency’s Army Base land (“Developer”); and

WHEREAS, the ENA requires: (1) CCIG to perform the master planning and design of certain infrastructure work at the Army Base (“Infrastructure Work”); and (2) the Developer to submit detailed plans for design, construction and development of its proposed Army Base project; and

WHEREAS, the ENA requires the Agency to review the technical and development submittals of CCIG for the Infrastructure Work, and the submittals of the Developer for its overall Army Base development proposal; and

WHEREAS, the Agency and the City do not have staff with expertise to review and advise on CCIG’s technical submissions for the Infrastructure Work, or the Developer’s submittals regarding its overall development proposal; and

WHEREAS, at the recommendation of the Public Works Agency, the Agency undertook a formal competitive Request for Qualifications (“RFQ”) procurement process to solicit, evaluate, and select the most qualified civil engineering team to provide engineering review and construction management services in connection with the Infrastructure Work, and the Developer’s overall Army Base development proposal; and

WHEREAS, on completion of the RFQ process, staff recommended using the team of Kennedy and Associates (“Contractor”) for civil engineering services; and

WHEREAS, by way of Agency Resolution No. 2010-0102 C.M.S., approved on August 24, 2010, the Agency Administrator negotiated and executed a Professional Services Agreement with the Contractor in an amount not to exceed \$150,000; and

WHEREAS, staff finds the Contractor’s performance under the Professional Services Agreement has been outstanding; and

WHEREAS, the Developer is pursuing a design/build approach to meet the Trade Corridor Improvement Fund (“TCIF”) deadline of December 31, 2013 for construction to begin, and so preserve the Port of Oakland’s TCIF award and secure for the Agency a \$62,000,000 allocation of the award; and

WHEREAS, the design/build approach to project delivery proposed by the Developer under the ENA requires staff to have continuous technical support in order to make informed decisions about development issues in a timely manner; and

WHEREAS, the City and the Agency lack sufficient personnel with the required expertise to provide continuous technical support for review of the Infrastructure Work, and the Developer’s overall project proposal under the ENA; and

WHEREAS, the Contractor’s original contract amount of \$150,000 is nearly expended and must be increased to assure staff of continuing access to the Contractor’s services for another year as CCIG initiates the design/build process, and to provide staff time to assess the technical assistance that may be needed after the design/build process is underway and to procure such assistance through a competitive process; and

WHEREAS, the Agency finds that the amendment to Contractor’s contract will be for services of a professional nature, and the services under this contract will be temporary; and

WHEREAS, the Agency finds that the amendment to Contractor’s contract will not result in the loss of employment or salary by any person having permanent status in the competitive service; and

WHEREAS, Oakland Municipal Code section 2.04.051.B authorizes the Agency Board to dispense with advertising and the request for proposal/qualification process for civil engineering services upon a finding that it is in the Agency’s best interests to do so; and

WHEREAS, this contract amendment is not affected by the current California Supreme Court stay prohibiting redevelopment agencies from executing new contracts or contract amendments because: (1) the ENA is an existing enforceable contract pre-dating the

issuance of the stay; (2) the ENA requires that the Agency review the proposed Army Base master developer's technical submissions; (3) neither the Agency nor the City have staff available to provide this function; and (4) the Agency must retain K&A to help fulfill the Agency's existing contractual obligations under the ENA; and

WHEREAS, staff recommends that it is in the Agency's best interests to waive the advertising and request for proposal/qualifications process for civil engineering services to provide staff with technical support regarding its ENA-required review of the Infrastructure Work, and the Developer's overall development proposal for the former Oakland Army Base because the support will help the Port preserve its TCIF award and secure for the Agency a \$62,000,000 allocation of the award, and because there is no one currently available on staff with the expertise to provide these services; now, therefore, be it

RESOLVED: That pursuant to Oakland Municipal Code section 2.04.051 and for the reasons stated above and in the Agency Administrator's report accompanying this Resolution, the Agency Board finds that it is in the Agency's best interests to waive advertising and the request for proposal/qualifications process for civil engineering services to provide staff with technical support for its ENA-required review of Infrastructure Work and the Developer's overall development proposal for the Oakland Army Base, and so waives the requirements; and be it

FURTHER RESOLVED: That the Agency Administrator is hereby authorized to negotiate and enter into an amendment to the Professional Services Agreement with the Contractor to increase the contract by an amount not to exceed \$150,000 for a total contract amount of \$300,000; and be it

FURTHER RESOLVED: That the funds in the amount of \$150,000 for said amendment are budgeted in the OBRA Leasing and Utility Fund (9575), West Oakland Base Reuse Organization (88679), OBRA Leasing and Utility Project (S294210); and be it

FURTHER RESOLVED: That the Agency Counsel shall review and approve the amendment authorized hereunder for form and legality and a copy shall be placed on file in the Office of the City Clerk.

DEC - 6 2011

IN AGENCY, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

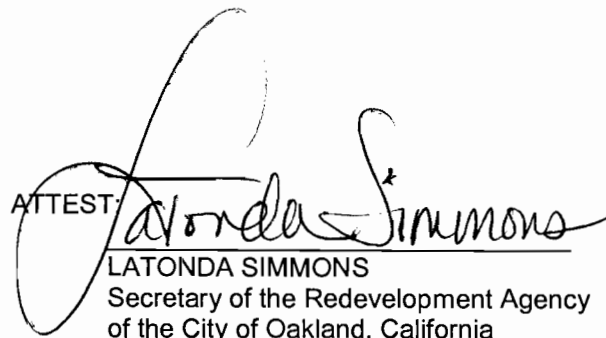
AYES - ~~GRUNNER~~, KERNIGHAN, NADEL, SCHAAF, DE LA FUENTE, BROOKS, KAPLAN, AND CHAIRPERSON REID

NOES - ~~Ø~~

ABSENT - ~~Ø~~

ABSTENTION - ~~Ø~~

ATTEST:


LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California