

OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION

(1) AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO: EXECUTE THE FOLLOWING AGREEMENTS FOR THE COMPLETION OF THE LEIMERT BOULEVARD BRIDGE SEISMIC RETROFIT PROJECT:

(A) A UTILITY AGREEMENT (UA), AND NOTICE TO OWNER (NTO), WITH PACIFIC GAS & ELECTRIC COMPANY (PG&E),

(B) A UTILITY AGREEMENT (UA), AND NOTICE TO OWNER (NTO) WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD),

(2) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS; AND

(3) ACCEPTING AND APPROPRIATING FUNDS FROM PG&E AND EBMUD AS REIMBURSEMENT OF THE CITY'S PROJECT COSTS PER THE ABOVE UAs TO BE NEGOTIATED WITH PG&E AND EBMUD IN THE ESTIMATED AMOUNT OF \$400,000.00;

WITHOUT RETURN TO COUNCIL

WHEREAS, the California State Legislature enacted the Local Bridge Seismic Safety Retrofit Program as part of the statewide Seismic Safety Retrofit program after the October 1989 Loma Prieta Earthquake; and

WHEREAS, the purpose of the program is to provide funding assistance to local agencies for remedying structural seismic design deficiencies of public bridges on local streets and roads in California; and

WHEREAS, the Leimert Boulevard Bridge was identified by the California Department of Transportation (Caltrans) for need of seismic retrofit; and

WHEREAS, the City accepted Federal Highway Administration (FHWA) grant funds under the Highway Bridge Program (HBP) for the seismic retrofit design of the Leimert Bridge in 2015, Resolution No. 85917 C.M.S.; and

WHEREAS, The State of California Transportation Commission (CTC) adopted new 1B Local Bridge Seismic Retrofit Account Guidelines on October 9, 2019; and

WHEREAS, CTC's new Guidelines require that Caltrans and the local agency responsible for the delivery of the local seismic retrofit project execute a project delivery agreement for all projects that did not advance to the construction phase by December 31, 2019; and

WHEREAS, City of Oakland and Caltrans signed a project delivery agreement (PDA) in August 2020, which requires to advance to construction this year, Resolution No. 88243 C.M.S.; and

WHEREAS, the PDA between Caltrans and the City of Oakland superseded existing baseline agreements and set forth for the Leimert Boulevard Bridge Seismic Retrofit Project scope, cost and delivery schedule; and

WHEREAS, The Leimert Boulevard Bridge Seismic Retrofit Project is currently in the design phase and will advance to the construction phase in according with the dates shown in the signed PDA given that the utility agreements are executed and therefore the right of way certificate is secured; and

WHEREAS, CTC's Guidelines state that local agencies that fail to meet a milestone in an executed project delivery agreement will be deemed ineligible to receive new funding obligations in the Highway Bridge Program (HBP) until the conditions of the project delivery agreement are met; and

WHEREAS, The purpose of the UAs with PG&E and EBMUD is to provide the contractual terms and conditions and the permission for the City to access the respective utility company's electric, gas and water utility lines and duct pipes; and

WHEREAS, The UAs will also address the cost reimbursement and liability on the city's contractor, PG&E, and EBMUD when constructing this work; and

WHEREAS, The City's issuance of NTOs will notify and direct the respective utility companies to remove and/or relocate their lines.

WHEREAS, The City's execution of the UAs, and NTOs, with PG&E and EBMUD will help expedite the process to advance to construction and secure the Right of Way (RW) certificate; and

WHEREAS, Execution of the UAs and NTOs, with PG&E and EBMUD will assist in meeting the PDA schedule deadlines and help in receiving FHWA grant funds that are necessary for the completion of the Leimert Boulevard Seismic Retrofit Project; and

WHEREAS, This action is exempt from the California Environmental Quality Act (CEQA) pursuant to the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

RESOLVED: That the Council hereby authorizes the City Administrator or his designee to enter into a UA and NTO and any amendments thereto with PG&E and EBMUD for completing the Leimert Boulevard Bridge Seismic Retrofit Project; and be it

FURTHER RESOLVED: The City Council has reviewed the proposed amendments to the Oakland Municipal Code and independently finds and determines that this action is exempt from CEQA pursuant to the following CEQA Guidelines Sections: Section

15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance; and be it

FURTHER RESOLVED: That the City Administrator or his designee is hereby authorized to finalize and execute the UAs and NTOs without return to Council; and be it

FURTHER RESOLVED, That the Council hereby authorizes the City Administrator to accept and appropriate funds from PG&E and EBMUD as reimbursement of the City's project costs per the UAs to be negotiated with PG&E and EBMUD in the estimated amount of \$400,000.00; without return to Council.; and be it

FURTHER RESOLVED, that the City Administrator or his designee is hereby authorized to approve any subsequent amendments or extensions of the UAs and NTOs provided that such amendments or extensions shall be approved by the City Attorney's Office and shall be filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO
AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

Asha Reed
City Clerk and Clerk of the Council
of the City of Oakland, California