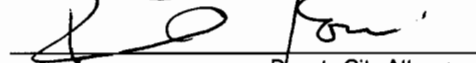


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OFFICE OF THE CITY CLERK
OAKLAND

2010 MAY 27 AM 10:21

APPROVED AS TO FORM AND LEGALITY


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 82825 C.M.S.

A RESOLUTION AUTHORIZING APPLYING FOR, ACCEPTING, AND APPROPRIATING \$1.7 MILLION IN FEDERAL SURFACE TRANSPORTATION PROGRAM AND/OR CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT GRANT FUNDS FROM THE ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY'S AND THE METROPOLITAN TRANSIT COMMISSION'S TRANSPORTATION FOR LIVABLE COMMUNITIES PROGRAMS FOR THE MACARTHUR BOULEVARD STREETScape PROJECT; COMMITTING \$3.3 MILLION IN LOCAL MATCH FUNDS; STATING THE CITY'S ASSURANCE TO COMPLETE THE PROJECT; AND ACCEPTING A CONTRIBUTION FROM THE REDEVELOPMENT AGENCY UNDER THE COOPERATION AGREEMENT FOR THE LOCAL MATCH FUNDS

WHEREAS, the Oakland Redevelopment Agency adopted a Five Year Implementation Plan for the Central City East Redevelopment Project on July 15, 2008 (Resolution No. 2008-70 C.M.S.), that includes streetscape improvements within the project area; and

WHEREAS, the City of Oakland is submitting applications to both the Metropolitan Transportation Commission ("MTC") and the Alameda County Congestion Management Agency ("ACCMA") Transportation for Livable Communities Programs ("TLC") for \$1.7 million in funding from the federal Surface Transportation Program ("STP") and/or Congestion Mitigation and Air Quality Improvement ("CMAQ") program for the MacArthur Boulevard Streetscape Project (herein referred to as the "Project") within the Central City East Redevelopment Project Area for the MTC Resolution, No. 3925, New Federal Surface Transportation Act (FY 2009-10, FY 2010-11 and FY 2011-12) Cycle 1 STP/CMAQ Program: Project Selection Criteria, Policy, Procedures and Programming (the "Program"); and

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA") (Public Law 109-59, August 10, 2005) authorized the STP (23 U.S.C. § 133) and the CMAQ (23 U.S.C. § 149) through September 30, 2009; and

WHEREAS, SAFETEA has been extended through December 31, 2010 pursuant to Public Law 111-147, March 18, 2010 and may be subsequently extended pending enactment of successor legislation for continued funding; and

WHEREAS, pursuant to SAFETEA, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal STP and/or CMAQ funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of STP/CMAQ funds; and

WHEREAS, the City is an eligible project sponsor for STP/CMAQ funds; and

WHEREAS, as part of the application for STP/CMAQ funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- 1) The commitment of necessary local matching funds of at least 20%; and
- 2) That the sponsor understands that the STP/CMAQ funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional STP/CMAQ funds; and
- 3) That the project will comply with the procedures specified in Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- 4) The assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's TIP; and
- 5) That the project will comply with all the project-specific requirements as set forth in the Program; and

WHEREAS, the MTC TLC grant requires a local match for the Project; and

WHEREAS, the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Redevelopment Agency financial contributions and other assistance to support City public improvements; and

WHEREAS, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; and

WHEREAS, the Redevelopment Agency has authorized \$3.3 million as the local match for the MTC grant with \$400,000 from JPFA Capital Project, Series 2005 Fund (5200) MacArthur/International Streetscape Project (C167630); \$2,500,000 from the Central City East Redevelopment Project Area Tax Allocation Bonds Series 2006A-T Fund (9540) MacArthur Streetscape Improvement Project (S233370); and \$400,000 from the Central City East Redevelopment Project Area Tax Allocation Bonds Series

2006A-TE Fund (9542) MacArthur Streetscape Improvement Project (S233370); all three sources will be transferred from the Agency to the City under the Cooperation Agreement, Fund (7780), under a project number to be established; and

WHEREAS, the City and the Redevelopment Agency agree that the City is the Lead Agency for the Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

WHEREAS, the execution of any documents legally committing the City to fund this Project shall be expressly conditioned upon compliance with the requirements of the National Environmental Protection Act ("NEPA"), as certified by the City Administrator or his designee; now therefore be it

RESOLVED: That the City is authorized to execute and file an application for funding for the Project under the STP/CMAQ of SAFETEA, any extensions of SAFETEA or any successor legislation for continued funding; and be it further

RESOLVED: That the City of Oakland by adopting this resolution does hereby state that:

1. The City will provide \$3.3 million in non-federal matching funds; and
2. The City understands that the STP/CMAQ funding for the Project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City from other funds, and that the City does not expect any cost increases to be funded with additional STP/CMAQ funding; and
3. The City understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
4. The Project will be implemented as described in the complete application and in this Resolution and, if approved, for the amount programmed in the MTC federal TIP; and
5. The City and the Project will comply with the requirements as set forth in the Program; and be it further

RESOLVED: That the City is an eligible sponsor of STP/CMAQ funded projects; and be it further

RESOLVED: That City is authorized to submit an application for STP/CMAQ funds for the Project; and be it further

RESOLVED: That there is no legal impediment to the City making applications for the funds; and be it further

RESOLVED: That there is no pending or threatened litigation that might in any way adversely affect the proposed Project or the ability of the City to deliver such Project; and be it further

RESOLVED: That the City authorizes the City Administrator, or his designee to execute and file an application with MTC for STP/CMAQ funding for the Project as referenced in this Resolution; and be it further

RESOLVED : That a copy of this Resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

RESOLVED: That the MTC is requested to support the application for the Project described in the resolution and to include the Project, if approved, in MTC's TIP; and be it further

RESOLVED: That the City Council hereby appropriates any funds that are received for this Project under the TLC grant program into the Metropolitan Transportation Commission Grant Fund (2163) under a project number to be established; and be it further

RESOLVED: That the City Council hereby consents to the use of \$3.3 million in Redevelopment Agency funds with \$400,000 from JPFA Capital Project, Series 2005 Fund (5200) MacArthur/International Streetscape Project (C167630); \$2,500,000 from the Central City East Redevelopment Project Area Tax Allocation Bonds Series 2006A-T Fund (9540) MacArthur Streetscape Improvement Project (S233370); and \$400,000 from the Central City East Redevelopment Project Area Tax Allocation Bonds Series 2006A-TE Fund (9542) MacArthur Streetscape Improvement Project (S233370); as matching funds, accepts such funds under the Cooperation Agreement, and appropriates such funds to the City repayment account in Fund 7780 under a project number to be established; and be it further

RESOLVED: That the City Council hereby finds and determines as follows:

1. That the funding of this Project will benefit the Central City East Redevelopment Project Area, and will assist in the elimination of blighting conditions in the Project Area by addressing needs related to the physical appearance, safety, and needed renovations to public facilities;
2. That due to fiscal constraints in the City's general fund and the high number of capital projects competing for limited City funds, the City's Capital Improvement Program budget is unable to provide financing for this Project, and therefore no other reasonable means of financing this Project is available to the City other than Redevelopment Agency funding;
3. That the use of tax increment funds from the Central City East Redevelopment Project for this Project is consistent with the Implementation Plan adopted for Central City East Redevelopment Project; and be it further

RESOLVED: That should additional funds be received for these projects, the City Administrator, or his designee, is hereby authorized to accept and allocate the same for the purposes described above; and be it further

RESOLVED: That the City Council hereby authorizes the City Administrator or his designee to negotiate grant terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures, and take all other actions with respect to the TLC Program grants and this Project in accordance with this Resolution and its basic purposes; and be it further

RESOLVED: That the City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information in the staff report accompanying this Resolution, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15301 (minor alterations to existing streets, sidewalks, and pedestrian and bicycle ways) of the CEQA guidelines; and be it further

RESOLVED: That the City Administrator or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for this Project; and be it further

RESOLVED: That the execution of any documents legally committing the City to fund this Project; shall be expressly conditioned upon compliance with the requirements of NEPA, as certified by the City Administrator or her designee; and be it further

RESOLVED: That all documents shall be reviewed and approved by the City Attorney's Office prior to execution, and all copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 15 2010, 2010

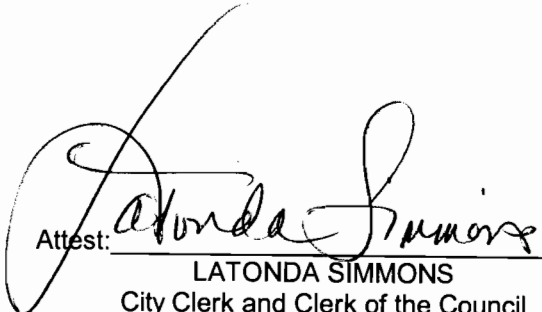
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

Attest: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California