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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2008 DEC 22 PM 4:16

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: January 13, 2009

RE: **Resolution Authorizing the City Administrator, Or The City Administrator's Designee, To Increase The Contract Amount For The Construction Manager At Risk (CMAR) Contract With Turner Construction Company For The East Oakland Sports Center Project (EOSC) From Eleven Million Nine Hundred Thousand Dollars (\$11,900,000.00) By: 1) Two Million Dollars (\$2,000,000.00) In Oakland Redevelopment Agency Funds; And 2) An Additional Five Million One Hundred Thousand Dollars (\$5,100,000.00) For A Total Contract Amount Not To Exceed Nineteen Million Dollars (\$19,000,000.00) Subject To The Availability Of Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond Funding, And Authorizing Early Termination Of The Contract In The Event That Measure WW Funds Become Unavailable**

SUMMARY

A resolution has been prepared authorizing the City Administrator, or the City Administrator's designee, to increase the contract amount for the Construction Manager At Risk (CMAR) contract with Turner Construction Company for the East Oakland Sports Center Project (EOSC) from eleven million nine hundred thousand dollars (\$11,900,000.00) by: 1) two million dollars (\$2,000,000.00) in Oakland Redevelopment Agency funds; and 2) an additional five million one hundred thousand dollars (\$5,100,000.00) for a total contract amount not to exceed nineteen million dollars (\$19,000,000.00) subject to the availability of Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond funding, and authorizing early termination of the contract in the event that Measure WW funds become unavailable.

Pursuant to Resolution No. 81418 C.M.S., the City Council approved a CMAR contract with Turner Construction Company for the EOSC for an amount not to exceed \$11,900,000.00 on July 1, 2008, based on the funds available at the time. However, this funding amount is only sufficient to complete a portion of the proposed EOSC project scope and it was anticipated that this contract would be increased as funds became available.

The EOSC received an additional \$2,000,000.00 in Coliseum Redevelopment Funds, with Council approval of Resolution No. 81627 C.M.S. on October 21, 2008 and an additional \$6,000,000.00 with the passage of the Measure WW Regional Open Space, Wildlife, Shoreline and Park Bond on November 4, 2008. The Measure WW bond allocation for the EOSC was approved by Council under Resolution No. 81586 C.M.S. on October 7, 2008. With the addition

Item: _____
Public Works Committee
January 13, 2009

of this \$8,000,000.00 in funding, the proposed EOSC project will consist of a 22,500 square foot building, which includes an indoor recreational swimming pool (natatorium), changing rooms, rest rooms, reception area with offices, an aerobics/dance room, a multi-purpose room/learning center, a fitness center and a parking lot. The EOSC is to be located on Edes Avenue near Jones Avenue at Ira Jinkins Park.

The construction of the EOSC is being expedited in order to complete the project by March 2010, so that the City will qualify for reimbursement for the State Proposition 40, 2002 Resources Bond Act grant of \$2,400,000.

The Measure WW portion of the funding is not currently available, but is scheduled to be available by May 31, 2009 when the master agreement between the East Bay Regional Park District and the City is executed and the bonds are issued.

In order for the EOSC to be completed by March, 2010, and within budget, the full project scope must start construction by January 2009. Construction of the project cannot be phased or segmented to coincide with the availability on Measure WW funding without significant delays in the schedule and significant cost increases due to inefficiencies in construction processes. If, in the unlikely event the Measure WW funding is not available, staff proposes to terminate or suspend the contract prior to completion of the project, and return to Council with a revised scope, an alternative funding source(s) or a combination of the foregoing.

FISCAL IMPACT

Approval of this resolution will authorize an increase in the CMAR contract with Turner Construction Company for the EOSC by \$7,100,000.00 for a total contract amount not to exceed \$19,000,000.00.

Funding in the amount of \$2,000,000.00 in Oakland Redevelopment Agency funding will be available for the construction contract with approval of this resolution. Funding authorization in the amount of \$5,100,000.00 in Measure WW funding is dependant on the full execution of a master agreement between the City and the East Bay Regional Park District and successful issuance of the Measure WW bond, which is scheduled to occur by May 31, 2009.

If Measure WW funds become unavailable for the project, staff proposes to terminate or suspend the contract prior to completion of the project, and return to Council with a revised scope, an alternative funding source(s) or a combination of the foregoing.

Of the \$8,000,000.00 added to the total project budget, \$7,100,000.00 is to be added to the CMAR contract. The remaining \$900,000.00 will be utilized for added design fees, added construction management and special inspection fees and administration costs for the Measure WW bond funding.

Upon approval of this resolution, additional funds for the construction contract in the amount of \$7,100,000.00 will be available from the following sources:

- \$1,000,000.00 from the Coliseum Area Redevelopment Project Operating Fund (Fund 9450), Coliseum Area Redevelopment Project Organization (88659), and the Coliseum Area Redevelopment Project (S82600) for the FY 2008-2009 which will be contributed to the City and allocated to the Oakland Redevelopment Agency Projects Fund (7780), CEDA Capital Improvement Project Org (94800), Project to be determined, in accordance with Council Resolution No. 81627 C.M.S.
- \$1,000,000.00 from the Coliseum Area Redevelopment Project Operating Fund (Fund 9450), Coliseum Area Redevelopment Project Organization (88659), and the Coliseum Area Redevelopment Project (S82600) for the FY 2009-2010 which will be contributed to the City and allocated to the Oakland Redevelopment Agency Projects Fund (7780), CEDA Capital Improvement Project Org (94800), Project to be determined, in accordance with Council Resolution No. 81627 C.M.S.
- \$5,100,000.00 from the 2008 Measure WW Regional Open Space, Wildlife, Shoreline and Park Bond in accordance with Council Resolution No. 81586 C.M.S. with an Account, Organization and Project Number to be determined in the future.

It is anticipated that the City's annual building operation and maintenance costs for the EOSC will be approximately \$340,000.00 based on a consultant's estimate and Public Works Agency staff's revisions. No funding source has been identified for the ongoing operations and maintenance, which includes utilities, building maintenance and operational funds.

The Office of Parks and Recreation's (OPR) preliminary estimate for program operating costs is approximately \$830,000 per year, including staff salaries, benefits and program operating expenses. OPR's preliminary estimate of potential cost recovery from user fees is approximately \$800,000.

BACKGROUND

The concept for the EOSC originated prior to 1996 with visions to create a recreation complex with aquatics, fitness centers, gymnasiums, and other sports facilities that would serve the local community and be used as a venue for the possible 2012 San Francisco Bay Area Olympic Games. Although the San Francisco Bay Area was not chosen for the 2012 Olympic Games, the need for a sports center with an aquatics component is still highly desirable.

This initial phase of the EOSC project will consist of a 22,500 square foot building, which includes an indoor recreational swimming pool (natatorium), changing rooms, rest rooms,

reception area with offices, an aerobics/dance room, a multi-purpose room/learning center, a fitness center and a parking lot. Future construction phases of the EOSC, which are not currently funded, will include a two-basketball-court gymnasium with an indoor elevated running track, an outdoor competitive swimming pool, soccer/baseball fields and additional parking facilities. The EOSC was included in the Environmental Impact Report for the City of Oakland Bond Measure DD projects. This EIR was certified April 1, 2008. This project is in compliance with the EIR and no further environmental clearance is required.

Turner Construction Company was selected to provide CMAR services for the EOSC through a competitive Request for Proposals process in accordance with Section 2.04.051 A of the Oakland Municipal Code. Turner Construction Company is highly qualified, have extensive experience with large public works projects and have successfully completed more than 100 CMAR projects. Their local work includes projects at the Oakland Airport, Oakland Children's Hospital, and Fox Theater, Oakland.

KEY ISSUES AND IMPACTS

The initial approval of \$11,900,000.00 for the CMAR contract with Turner Construction Company was only sufficient to complete a portion of the EOSC project scope and it was anticipated that this contract would be increased as funds became available. With the addition of \$8,000,000.00 to the project budget from the Oakland Redevelopment Agency and from the Measure WW Regional Open Space, Wildlife, Shoreline and Park Bond, the initial phase of the EOSC will be fully funded.

The construction of the EOSC is being expedited in order to complete the project by March 2010, so that the City will qualify for reimbursement for the State Proposition 40, 2002 Resources Bond Act grant of \$2,400,000.00.

The Measure WW portion of the funding is not currently available, but is scheduled to be available by May 31, 2009 when the master agreement between the East Bay Regional Park District and the City is executed.

In order for the EOSC to be completed by March, 2010, and within budget, the full project scope must start construction by January 2009. Construction of the project cannot be phased or segmented to coincide with the availability on Measure WW funding without significant delays in the schedule and significant cost increases due to inefficiencies in construction processes.

Turner Construction Company will be required to meet the City's Local Business Enterprise Programs (LBE/SLBE) for the entire project. Turner Construction Company has maximized local business participation in the EOSC by performing extensive outreach services to local contractors and trade associations, by structuring bid packages to target local business and by providing insurance coverage for all subcontractors while working at the project site.

EVALUATION OF PAST PERFORMANCE

No Contractor Performance Evaluations are on file with the City for Turner Construction Company at this time. Turner has not completed any City construction contracts which require such evaluation.

PROJECT DESCRIPTION

The EOSC will be constructed on Edes Avenue between Jones Avenue and Phelps Street at Ira Jenkins Park. The project will include a total of 22,500 square feet of building floor space; 6,000 square feet on the upper level and 16,500 square feet at ground level. The building includes a 9,000 square foot indoor swimming pool building (natatorium) with a 3,500 square foot indoor recreational swimming pool, changing/locker rooms and rest rooms, a reception area with meeting rooms and offices, an aerobics/dance room, a multi-purpose room/learning center and a fitness center. An 85-space parking lot is also included.

SUSTAINABLE OPPORTUNITIES

Economic: The project will generate business tax, sales tax, and other revenues for the City by those firms who work on the project.

Environmental: Environmental factors and opportunities will be considered and incorporated to the extent feasible. The consultants and contractor will be required to achieve a LEED silver rating in the design and construction of the facility by maximizing recycled content materials in the products, waste reduction, energy conservation, and integrating other environmental opportunities. The water for the recreational swimming pool will be heated by solar thermal panels mounted on the roof of the natatorium.

Social Equity: The EOSC will provide new social opportunities and services to the community with much needed aquatic and recreational facilities for all ages and abilities and will provide a venue for building community cohesiveness and community pride.

DISABILITY AND SENIOR CITIZEN ACCESS

The EOSC will be in full compliance with the physical access requirements of the Americans with Disabilities Act ("ADA") by providing equal access to the facility.

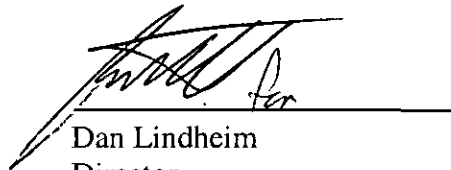
RECOMMENDATION AND RATIONALE

Staff recommends that the Council approve the resolution in order to expedite construction of the EOSC in the most cost effective manner and to complete the project by March, 2010, in order to qualify for the reimbursement of \$2,400,000.00 in State Proposition 40, 2002 Resources Bond Act grant funding.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution authorizing the City Administrator, or the City Administrator's designee, to increase the contract amount for the Construction Manager At Risk contract with Turner Construction Company for the East Oakland Sports Center Project from eleven million nine hundred thousand dollars (\$11,900,000.00) by: 1) two million dollars (\$2,000,000.00) in Oakland Redevelopment Agency funds; and 2) an additional five million one hundred thousand dollars (\$5,100,000.00) for a total contract amount not to exceed nineteen million dollars (\$19,000,000.00) subject to the availability of Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond funding, and authorizing early termination of the contract in the event that Measure WW funds become unavailable.

Respectfully submitted,



Dan Lindheim
Director
Community & Economic Development Agency

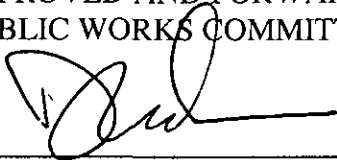
Reviewed by:

Michael J. Neary, P.E.
Deputy Director, Community & Economic
Development Agency

Prepared by:

Lyle Oehler
Project Manager, Project Delivery

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



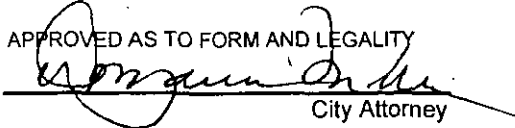
Office of the City Administrator

Item: _____
Public Works Committee
January 13, 2009

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2008 DEC 22 PM 4:16

APPROVED AS TO FORM AND LEGALITY


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR THE CITY ADMINISTRATOR'S DESIGNEE, TO INCREASE THE CONTRACT AMOUNT FOR THE CONSTRUCTION MANAGER AT RISK CONTRACT WITH TURNER CONSTRUCTION COMPANY FOR THE EAST OAKLAND SPORTS CENTER PROJECT FROM ELEVEN MILLION NINE HUNDRED THOUSAND DOLLARS (\$11,900,000.00) BY: 1) TWO MILLION DOLLARS (\$2,000,000.00) IN OAKLAND REDEVELOPMENT AGENCY FUNDS AND 2) FIVE MILLION ONE HUNDRED THOUSAND DOLLARS (\$5,100,000.00) IN MEASURE WW REGIONAL OPEN SPACE, WILDLIFE, SHORELINE AND PARK BOND FUNDING, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED NINETEEN MILLION DOLLARS (\$19,000,000.00) SUBJECT TO THE AVAILABILITY OF MEASURE WW REGIONAL OPEN SPACE, WILDLIFE, SHORELINE AND PARK BOND FUNDING, AND AUTHORIZING EARLY TERMINATION OF THE CONTRACT IN THE EVENT THAT MEASURE WW FUNDS BECOME UNAVAILABLE

WHEREAS, the East Oakland Sports Center is a much needed project to provide a wide variety of year-round recreational opportunities; and

WHEREAS, the East Oakland Sports Center Project was included in the Environmental Impact Report for the City of Oakland Bond Measure DD projects, which was certified April 1, 2008, and no additional supplemental environmental clearance is required; and

WHEREAS, the East Oakland Sports Center Project is being expedited for completion by March 2010 in order to qualify for the reimbursement of \$2,400,000.00 in State Proposition 40, 2002 Resources Bond Act grant funding; and

WHEREAS, in order for the East Oakland Sports Center Project to be completed by March, 2010, and within budget, the full project scope must start construction by January 2009; and

WHEREAS, Turner Construction Company was selected to provide Construction Manager At Risk services for the East Oakland Sports Center Project through a competitive Request For Proposals process in accordance with Section 2.04.051 A of the Oakland Municipal Code; and

WHEREAS, pursuant to Resolution No. 81418 C.M.S., the City Administrator was authorized to award a Construction Manager At Risk contract to Turner Construction Company in an amount not to exceed \$11,900,000.00 for construction of the East Oakland Sports Center in accordance with Section 2.04.190 of the Oakland Municipal Code; and

WHEREAS, the Construction Manager At Risk contract amount of \$11,900,000.00 is not sufficient to complete the scope of the East Oakland Sports Center Project; and

WHEREAS, pursuant to Resolution No. 81627 C.M.S., an additional \$2,000,000.00 in Coliseum Redevelopment Funds were appropriated for the East Oakland Sports Center Project; and

WHEREAS, pursuant to Resolution No. 81586 C.M.S. and with the passage of the Measure WW Regional Open Space, Wildlife, Shoreline and Park Bond on November 4, 2008, an additional \$6,000,000.00 was allocated for the East Oakland Sports Center Project; and

WHEREAS, funding authorization from Measure WW for the East Oakland Sports Center Project is dependant upon the full execution of a master agreement between the City and the East Bay Regional Park District and successful issuance of the Measure WW bond, which is scheduled to occur by May 31, 2009; and

WHEREAS, if Measure WW funds become unavailable for the project, staff proposes to terminate or suspend the contract early, i.e., prior to completion of the project, and return to Council with a revised scope, an alternative funding source(s) or a combination of the foregoing; and

WHEREAS, approval of this resolution will increase the Construction Manager At Risk contract with Turner Construction Company for the East Oakland Sports Center Project by \$7,100,000.00 and the additional funding will be available from the following sources:

- \$1,000,000.00 from the Coliseum Area Redevelopment Project Operating Fund (Fund 9450), Coliseum Area Redevelopment Project Organization (88659), and the Coliseum Area Redevelopment Project (S82600) for the FY 2008-2009 which will be contributed to the City and allocated to the Oakland Redevelopment Agency Projects Fund (7780), CEDA Capital Improvement Project Org (94800), Project to be determined, in accordance with Council Resolution No. 81627 C.M.S.
- \$1,000,000.00 from the Coliseum Area Redevelopment Project Operating Fund (Fund 9450), Coliseum Area Redevelopment Project Organization (88659), and the Coliseum Area Redevelopment Project (S82600) for the FY 2009-2010 which will be contributed to the City and allocated to the Oakland Redevelopment Agency Projects Fund (7780), CEDA Capital Improvement Project Org (94800), Project to be determined, in accordance with Council Resolution No. 81627 C.M.S.
- \$5,100,000.00 from the Measure WW Regional Open Space, Wildlife, Shoreline and Park Bond in accordance with Council Resolution No. 81586 C.M.S. with an Account, Organization and Project Number to be determined; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work and the City Council finds and determines that the performance of this contract is in the public interest because of economy and that services under this contract will be temporary; and

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

RESOLVED: That the City Administrator, or the City Administrator's designee, is authorized to increase the contract amount for the Construction Manager At Risk (CMAR) contract with Turner Construction Company for the East Oakland Sports Center Project (EOSC) from eleven million nine hundred thousand dollars (\$11,900,000.00) by: 1) two million dollars (\$2,000,000.00) in Oakland Redevelopment Agency funds; and 2) an additional five million one hundred thousand dollars (\$5,100,000.00) for a total contract amount not to exceed nineteen million dollars (\$19,000,000.00) subject to the availability of Measure WW Regional Open Space, Wildlife, Shoreline And Park Bond funding, and authorizing early termination of the contract in the event that Measure WW funds become unavailable; and be it

FURTHER RESOLVED: That the City Administrator is authorized to terminate or suspend the contract with Turner Construction Company for the original project early, i.e., prior to completion of the project) if Measure WW Regional Open Space, Wildlife, Shoreline and Park bond funds become unavailable for the project; and be it

FURTHER RESOLVED: That in the event of early contract termination or suspension, the City Administrator shall return to Council with 1) a revised, scaled-down scope and contract award/revision within budget, or 2) a request for appropriation of alternative funds to cover the loss Measure WW funds to complete the original project scope, or 3) a proposal for a combination of the foregoing; and be it

FURTHER RESOLVED: That the City Administrator, or the City Administrator's designee, is authorized to execute any amendments or modifications of said contract within the limitations of the project specifications; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved for form and legality by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California