

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 DEC 22 PM 4: 16

APPROVED AS TO FORM AND LEGALITY


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81775 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.

FEB 3 2009

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- 7 ~~BROOKS~~, BRUNNER, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE,

NOES- 0

ABSENT- 0

ABSTENTION- 0

EXCUSED - Brooks - 1

ATTEST:



LaTonia Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California