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FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY

  
Felipe Ortiz (July 26, 2023 1:03 PM)  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. 89843 C.M.S.

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**A RESOLUTION:**

**(1) AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A PROFESSIONAL SERVICES CONTRACT TO MOTT MACDONALD GROUP, INC. UTILIZING A COOPERATIVE AGREEMENT IN THE AMOUNT NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000) TO PROVIDE TECHNICAL SUPPORT AND INSPECTION SERVICES TO THE CITY OF OAKLAND FOR THE CONSTRUCTION OF THE 7TH STREET GRADE SEPARATION EAST PROJECT; AND**

**(2) ADOPTING NATIONAL ENVIRONMENTAL POLICY ACT AND CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the Alameda County Transportation Commission (“ACTC”), as implementing agency, has been working with the City of Oakland (“City”) and the Port of Oakland (“Port”) to develop and implement a suite of freight transportation projects known as the Global Opportunities at the Port of Oakland Program (“GoPort Program”), which includes the 7th Street Grade Separation East Project (“Project”) that is designed to realign and rebuild a grade-separated underpass structure for vehicular, cyclist and pedestrian traffic on 7th Street to cross under the Union Pacific Railroad (“UPRR”) tracks to improve Port access and traffic safety while preserving rail operations; and

**WHEREAS**, on November 27, 2018, the Oakland City Council adopted Resolution No. 87415 C.M.S., which authorized the City Administrator to negotiate and execute an agreement with ACTC for the reimbursement of City costs incurred in the review and approval of design plans and documents for the GoPort Program projects; and

**WHEREAS**, on August 26, 2019, and amended June 1, 2021, ACTC and the City entered into Agreement No. A19-0028 (as amended, the “Reimbursement Agreement”) to compensate the City for its reimbursable design oversight services for the Project; and

**WHEREAS**, the California Department of Transportation as the lead agency, working collaboratively with ACTC, obtained approvals and clearance for the Project under the National Environmental Policy Act (“NEPA”) and issued a NEPA Categorical Exclusion on October 25,

2018 and the Project was included in the 2002 Oakland Army Base Redevelopment Environmental Impact Report (“OAB EIR”) and its addenda, as certified by the City and the Port in June 2012. In November 2019, a California Environmental Quality Act (“CEQA”) determination pursuant to CEQA Guidelines section 15164 was made that the Project would not result in any new significant environmental effects beyond those identified in the OAB EIR, nor would result in a substantial increase in the severity of previously identified significant effects; and

**WHEREAS**, on December 2, 2022, UPRR and ACTC entered into a Construction and Maintenance Agreement, 7th Street, DOT No. 972497A, Mile Post 4.75 – Niles Subdivision, Oakland, Alameda County, California, and known in UPRR’s records as part of Real Estate Folder Number 3142-52, in which, among other things, ACTC commits to construct the Project; and

**WHEREAS**, upon completion and acceptance of construction of the Project, UPRR will retain ownership of the project improvements that are within the railroad operating right of way, and ACTC will assign ownership of specific portions of the improvements to the City and the Port; and

**WHEREAS**, on May 15, 2023, ACTC, the City, and the Port of Oakland executed a Cooperative Agreement (Alameda CTC Agreement No. A23-0014) to define the operations, repairs and maintenance responsibilities of the parties; and

**WHEREAS**, on January 2020 and amended May 15, 2023, ACTC, the City, and the Port of Oakland executed a Memorandum of Understanding (A20-0005) (the “Construction MOU”), in which the parties acknowledge that ACTC is responsible for the procurement of contractor(s) and funding for the construction phase of the Project, and that the City and Port will have construction oversight roles and responsibilities during construction; and

**WHEREAS**, on April 18, 2023, the City Council authorized the City Administrator to negotiate an Amended Reimbursement Agreement obligating ACTC to reimburse the City for those costs identified in the Amended Construction MOU. The Mott MacDonald Group, Inc. support services contract is fully funded by ACTC through the Amended Reimbursement Agreement (City Council Resolution No. 89674 C.M.S.); now, therefore, be it

**RESOLVED:** That the City Administrator is hereby authorized to award a professional services contract to Mott MacDonald Group, Inc. utilizing a cooperative agreement in the amount not to exceed three million dollars (\$3,000,000) to provide technical support and inspection services to the City for the construction of the 7<sup>th</sup> Street Grade Separation East Project; and be it

**FURTHER RESOLVED:** That the City Council has independently considered and finds that the Project obtained California Department of Transportation approvals, including a NEPA Categorical Exclusion on October 25, 2018. The City Council also finds that the Project complies with CEQA pursuant to CEQA Guidelines section 15164 since the Project would not result in any new significant environmental effects beyond those identified in the OAB EIR, nor would it result in a substantial increase in the severity of previously identified significant effects; and be it

**FURTHER RESOLVED:** That charges to the Project will be filed as follows: Project 1004690 (GoPort ACTC Grant); Fund 2214 (ACTC Reimbursable Grants); Organization 35211 (Great Streets Delivery Admin); Program NB33; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to conduct all negotiations and execute all documents which may be necessary and consistent with the basic intent and purpose of this Resolution, including without limitation, to approve any subsequent amendments, modifications to or extensions of said agreement, or issue any notices, and take any related actions provided that any such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk's Office; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney for form and legality and a copy of this resolution will be placed on file with the City Clerk; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized on behalf of the City of Oakland to execute and submit all documents, payment requests, and related actions consistent with the authorizations set forth in this Resolution.


IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **JUL 18 2023**

AYES - FIFE, GALLO, ~~AMIN~~, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS - 7

NOES  $\phi$   
ABSENT  $\phi$   
ABSTENTION  $\phi$

1 Excused - Jenkins

ATTEST:   
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California