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July 13, 2004

Councilmember Danny Wan and Members
Finance and Management Committee
Oakland City Council
Oakland CA

RE: Resolution Authorizing the City Administrator to take action on procurement of certain supplies and services exceeding \$500,000 and certain professional services contracts exceeding \$150,000 during the Agency/Council Summer 2004 Recess

This report describes the process for handling legislative matters during the Agency/ Council summer recess and requests authorization by City Council to take action on procurement of certain supplies and services exceeding \$500,000 and certain professional services contracts exceeding \$150,000 during the Agency/Council Summer 2004 Recess.

Background

Resolution No. 78307 C.M.S., adopted on January 20, 2004, establishes the City Council's Rules of Procedures, including procedures for the annual summer recess. The annual recess runs from August 1 through August 31 each year, or until the first meeting in September, as set by the Rules Committee. During the summer recess, the Mayor is authorized to take such actions as would normally be taken by the City Council. In order to implement the provisions of Rules of Procedures resolution, and in compliance with the Sunshine Ordinance, the City Administrator as the Mayor's designee, through the City Clerk, will continue to notice, publish, and post in appropriate locations on Fridays a "two-week agenda" throughout the recess. Ordinances and reports to committees will not be processed during the recess. Neither will a supplemental agenda be published.

Further, Chapter 2 [2.04.020-F] of the Oakland Municipal Code authorizes the City Administrator, as the Mayor's designee, to approve during recess contracts, in any one transaction, pertaining to: (1) supplies and services procurement not exceeding Five Hundred Thousand Dollars (\$500,000), and (2) professional services not exceeding One Hundred Fifty Thousand Dollars (\$150,000). Actions taken thereon by the Mayor and City Administrator will be subject to ratification by the City Council upon its return.

Key Issues and Impacts

1) The following professional service contract exceeds the \$150,000 limit, will be ready for approval during the Council recess, and has implications if not approved timely during the recess:

Authorization to negotiate and execute a professional services contract for transportation planning services with the selected consultant in an amount not to exceed \$156,000 from the Fruitvale Alive Environment Justice Grant.

This resolution will authorize the City Administrator to award a professional services contract for an amount not to exceed \$156,000 for transportation planning services for the Fruitvale Alive Environment Justice Grant.

The California Department of Transportation, Division of Transportation Planning ("Caltrans") Environmental Justice Program has awarded the City \$170,000 to fund a comprehensive transportation plan for Fruitvale Avenue between I-580 and the Dimond district. The grants are awarded on a competitive basis to projects with a clear focus on transportation and community planning issues that address the interests of low-income, minority and other under-represented communities. Projects awarded under these grants must begin in Fiscal Year 2003/2004 and be completed by the end of Fiscal Year 2004/2005. The grant is administered by the CEDA Redevelopment Division.

The Environmental Justice funds will be used to fund a comprehensive transportation plan for Fruitvale Avenue from MacArthur Boulevard to the Oakland Estuary. The plan will address all transportation modalities including pedestrians, bicyclists, public transit and private vehicles. Neighborhood Commercial Revitalization Unit will contribute an additional \$15,000 that will be used to extend this study to the Dimond District segment of MacArthur Boulevard between Sheffield and Lincoln Avenues.

The City Council and Agency approved Resolutions 78404 C.M.S. and 2004-15 C.M.S. on March 16, 2004 authorizing the acceptance of this grant and appropriating the matching funds. The required City match is \$18,900 from Coliseum Redevelopment Area funds (Fund 9450, Org. 88659, Project S82600, Acct. 53719) and the Neighborhood Commercial Revitalization Unit will contribute an additional \$15,000 (Fund 2108, Proj. GO4600, Org. 88569, Acct. 53719) that will be used to extend this plan to the Dimond District segment of MacArthur Boulevard between Sheffield and Lincoln Avenues. The contract funds will be set up under the Project Fund 2140 (California Department of Transportation).

Staff has worked with Caltrans to execute the Fund Transfer Agreement which formalizes the grant award and is currently in the process of preparing a Request for Proposals for selecting a consultant. Staff expects to complete the selection by early August, 2004. Authorization of the consultant during Council recess will allow staff to execute the contract and begin the process of developing the transportation plan in a more timely fashion than if this contract was deferred for full Council authorization after the recess. This will give additional time for the consultant and the community to develop the products with adequate community input, and complete the transportation plan by August, 2005, for Caltrans invoicing purposes.

2) The following action will exceed the \$500,000 limit for purchase of supplies and services (construction contract); will be ready for approval during the recess; and will have adverse implications if not approved timely during the recess:

Authorization to increase the change order limit by \$115,000 on the construction contract with Ray's Electric for the Eastlake Streetscape and Pedestrian Enhancement Project, for a total contract amount not to exceed \$1,909,685 (PROJECT NO. G174710)

The resolution will authorize an increase to the change order limit by \$115,000 on the construction contract with Ray's Electric for the Eastlake Streetscape and Pedestrian Enhancement Project (Project No. G174710). In accordance with the project specifications, the construction contract with Ray's Electric limits the total construction contract to \$1,794,685, which consists of a base contract of \$1,495,571 and \$299,114 in allowable change orders. With approval of this resolution, the amount of allowable change orders will be increased by a maximum of \$115,000 for a revised total contract amount not to exceed \$1,909,685. The Eastlake project is located in Council District 2.

The change order limit increase will allow streetscape improvements to be extended two additional blocks along International Boulevard from 8th to 10th Avenues. At the time of the award of the original contract to Ray's Electric, project funding was insufficient to construct improvements at these two blocks. Additional grant funding that is specific for the Eastlake Streetscape and Pedestrian Enhancement Project ("project") has recently been secured that will fund the construction of these two remaining blocks.

The current project completion date is August 2004. The additional work will require an estimated 75 additional working days for a new anticipated completion date of December 2004. By increasing the change order limit at this time, construction of the project can continue with minimal interruption. The project is currently under construction, and timely issuance of change order work will avoid substantial adverse impacts on the construction schedule and the potential increase in costs to the City due to contractor's remobilization. In addition, deferring approval until after the summer recess will result in extending the construction work fully into the winter months, thereby potentially creating additional delays and impacts to the community.

3) The following action will be ready for approval during the recess; and will have adverse implications if not approved timely during the recess:

Authorization to award a construction contract to the lowest responsible bidder for a not to exceed amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, without return to the Council/Agency, provided that if bids are not received or are non-responsive, the City/Agency Administrator may reject all bids and negotiate and award the contract not to exceed \$150,000, without return to the Council/Agency, and reprogram funds for this purpose.

Authorization to use Redevelopment Agency funds, or alternative non-Agency funds, in the amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, and making supporting findings

Frank Ogawa Plaza has become increasingly popular with merchants and pedestrians over the past few years. Staff has been considering various options to further enhance the vitality of the Plaza. During discussions of various concepts, it was concluded that the Plaza would be significantly improved by installing merchant kiosks at specific locations in the Plaza. In doing this, special consideration would be given to improving visibility to commercial uses and better utilizing the open space around the two existing oak trees at the north end of the Plaza. As a result, a decision was made to relocate and convert the existing Public Notices structure into three kiosks. A new Public Notices Board will be fabricated and installed on the Northeastern Wall of the Clay Street Garage facing the Dalziel Building. Utilizing and moving the existing structure will: (1) provide better visual access to the Plaza's commercial uses, (2) create a more appropriate use of the existing steel structure, (3) provide an opportunity to create a source of revenue from the structure and, (4) enhance the space around the oak trees by revitalizing and stimulating additional pedestrian and merchant activity.

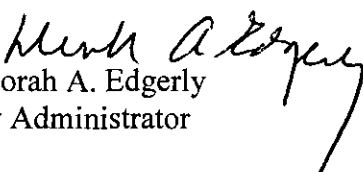
Implementation of the kiosk project will cost under \$150,000. Funding is recommended from two Oakland Redevelopment Agency (ORA) sources; \$75,000 from the Downtown Streetscape Master Plan (fund 9516, org. 94800, account 54011, project P128820) and \$75,000 from the Downtown Façade Improvement Program (fund 9526, org. 94800, account 57311, project T245710). Maintenance needs of the new structure are similar to its current needs and will continue to be performed by the City staff assigned to the Plaza. We do not expect any additional staff to be required and anticipate that the present value of the future revenues to be \$474,000 as the result of this installation.

In order to expedite the execution of this construction contract, PWA will concurrently advertise for bids and award a contract to the responsible low bidder after Council approves this resolution. In the event that bids are not received, or bids are not responsive, the Agency Administrator or her designee will reject bids and negotiate a contract not to exceed \$150,000. Bidders will be required to meet the City's standard bid and contracting requirements and the Local/Small Local Business Enterprise goals.

In order to expedite the contract award process and complete the installation of the kiosks prior to the rainy season, staff recommends the City/Agency Administrator be authorized to award a construction contract upon receipt and review of bids. Staff intends to start this project in August and complete it in early September 2004.

Staff reports and resolutions for the above projects will be prepared during the recess and appear on the Mayor's Summer Recess Agenda.

Respectfully submitted,


Deborah A. Edgerly
City Administrator

DRAFT

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO TAKE ACTION ON PROCUREMENT OF THE FOLLOWING SUPPLIES AND SERVICES EXCEEDING \$500,000 AND PROFESSIONAL SERVICES CONTRACTS EXCEEDING \$150,000 DURING THE AGENCY/COUNCIL 2004 SUMMER RECESS:

(1) Authorization to negotiate and execute a professional services contract for transportation planning services with the selected consultant in an amount not to exceed \$156,000 from the Fruitvale Alive Environment Justice Grant

(2) Authorization to increase the change order limit by \$115,000 on the construction contract with Ray's Electric for the Eastlake Streetscape and Pedestrian Enhancement Project, for a total contract amount not to exceed \$1,909,685. (PROJECT NO. G174710)

(3) a) Authorization to award a construction contract to the lowest responsible bidder for a not to exceed amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, without return to the Council/Agency, provided that if bids are not received or are non-responsive, the City/Agency Administrator may reject all bids and negotiate and award the contract not to exceed \$150,000, without return to the Council/Agency, and reprogram funds for this purpose.

b) Authorization to use Redevelopment Agency funds, or alternative non-Agency funds, in the amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, and making supporting findings

WHEREAS, contract approval limits for the City Administrator during the annual summer recess of the City Council have set expenditure limits of \$500,000 for procurement of certain supplies and services and \$150,000 for professional services contracts; and

WHEREAS, there are three contracts that exceed these expenditure limits that would be ready for approval during the Council recess and may have implications if not approved

WHEREAS, these items are:

- Authorization to negotiate and execute a professional services contract for transportation planning services with the selected consultant in an amount not to exceed \$156,000 from the Fruitvale Alive Environment Justice Grant

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- **Authorization to increase the change order limit by \$115,000 on the construction contract with Ray's Electric for the Eastlake Streetscape and Pedestrian Enhancement Project, for a total contract amount not to exceed \$1,909,685. (PROJECT NO. G174710)**

- **A) Authorization to award a construction contract to the lowest responsible bidder for a not to exceed amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, without return to the Council/Agency, provided that if bids are not received or are non-responsive, the City/Agency Administrator may reject all bids and negotiate and award the contract not to exceed \$150,000, without return to the Council/Agency, and reprogram funds for this purpose.**

- B) Authorization to use Redevelopment Agency funds, or alternative non-Agency funds, in the amount of one hundred fifty thousand dollars (\$150,000) for the installation of merchant kiosks at the Frank Ogawa Plaza, and making supporting findings**

RESOLVED: That the City Council of the City of Oakland hereby authorizes the City Administrator to negotiate, and award contracts, and reject bids if necessary, on the above-mentioned projects during the annual City Council recess.

IN COUNCIL, OAKLAND, CALIFORNIA, JULY 20, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, BROOKS, CHANG, NADEL, QUAN, REID, WAN
AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California



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