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OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89514 C.M.S.

RESOLUTION (A) AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT REVENUES PAYABLE FROM IKE SMART CITY LLC, INCLUDING A ONE TIME PAYMENT OF \$250,000.00, A MINIMUM ANNUAL GUARANTEE OF \$10,000.00 PER COMMISSIONED KIOSK, REVENUE SHARING EQUAL TO THIRTY-FIVE (35) PERCENT OF ANNUAL NET REVENUES ABOVE THE MINIMUM GUARANTEE, AND ONGOING PAYMENTS OF \$65,000.00 PER YEAR FOR REIMBURSEMENT OF STAFF COSTS FOR MANAGING THE FRANCHISE AGREEMENT AND KIOSKS, (B) APPROPRIATING REVENUES AND EXPENSES TOTALING \$282,500.00 EACH IN FISCAL YEAR 2022-2023 BUDGET, AND (C) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the Oakland Department of Transportation is tasked with improving transportation choices and minimizing parking demand, congestion, and pollution, such as through transportation demand management programs; and

WHEREAS, IKE Smart City LLC (IKE), an advertising agency, provided an unsolicited proposal to install fifty (50) digital advertising and wayfinding kiosks in Oakland's right-of-way; and

WHEREAS, the proposed kiosks feature a large, interactive digital display that either shows advertising or allows for touch-based interaction about a range of topics, including transit information, wayfinding, local business directories and more. The kiosks also provide a free WiFi hotspot that allows anyone with a WiFi-enabled device to access the Internet with limited speeds; and

WHEREAS, the City Council directed staff to negotiate the terms of a non-exclusive Franchise Agreement with IKE, including terms related to funding city staff time by IKE and how and when funding is distributed, equitable distribution of kiosks, maintenance of the kiosks by IKE including response time, the number and in-kind slides to the city, privacy concerns including not utilizing the cameras, IP address tagging and any other privacy concerns and to bring back to the City Council the terms of agreement and any other needed legislation for approval; and

WHEREAS, staff negotiated these terms and prepared a proposed Franchise Agreement; and

WHEREAS, there are currently no staff dedicated to managing the City's street furniture program. Staff estimate that the development, implementation, evaluation and ongoing management of any new contracts for street furniture, including digital advertising kiosks, will require approximately one-half of a full-time equivalent (FTE) staff position within the Department of Transportation at the Transportation Planner II level; and

WHEREAS, IKE has agreed to share thirty-five (35) percent of net revenues, including a \$250,000.00 prepayment and a minimum annual guarantee of \$10,000.00 per commissioned kiosk, in addition to an ongoing payment of \$65,000.00 or twenty-five (25) percent of the total cost of a Transportation Planner II to the City for staff time related to negotiating, developing and implementing the proposed Franchise Agreement; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses or obtaining funds for capital projects, necessary to maintain service within existing service areas; now, therefore, be it

RESOLVED: the City Administrator is hereby authorized to invoice and accept revenues from IKE including a one-time advance payment of \$250,000.00 and ongoing revenues equal to thirty-five (35) percent of IKE's annual net revenues, including a minimum annual guarantee of \$10,000.00 per commissioned kiosk, plus ongoing payments of \$65,000.00 per year and billed quarterly for reimbursement of staff costs for negotiating, developing and implementing a non-exclusive franchise agreement; and

FURTHER RESOLVED: That revenues collected from IKE in the amount of \$282,500.00 be appropriated to General Purpose Fund (1010), Revenue Account (45312), Mobility Management Organization (35247), Project Number (to be determined) and expenses in the amount of \$282,500.00 be appropriated to General Purpose Fund (1010), Regular Salaries Expense Account (51111), Mobility Management Organization (35247), Project Number (to be determined) in Fiscal Year 2022-2023; and

FURTHER RESOLVED: That revenues and expenses associated with the IKE digital kiosk program be included in future City-wide biannual and mid-cycle budget proposals for the duration of that program; and

FURTHER RESOLVED: this action is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses or obtaining funds for capital projects, necessary to maintain service within existing service areas.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **DEC 6 2022**


AYES - ~~THE~~, GALLO, KALB, KAPLAN, REID, TAYLOR, ~~THAO~~ AND ~~RESIDENT REPRESENTATIVES~~ -5

NOES - 0

ABSENT - Thao - 1

ABSTENTION - 0

Excused - Bas & File - 2

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