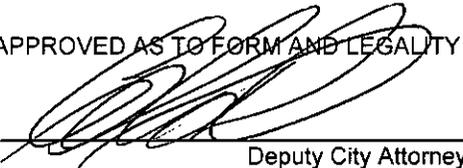


2014 OCT 30 PM 2:32

APPROVED AS TO FORM AND LEGALITY

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 85285 C.M.S.

A RESOLUTION WAIVING THE COMPETITIVE REQUEST FOR PROPOSAL (“RFP”) SELECTION REQUIREMENT AND AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A NEW PROFESSIONAL SERVICES AGREEMENT WITH THE OAKLAND BUSINESS DEVELOPMENT CORPORATION (OBDC) IN AN AMOUNT NOT TO EXCEED \$500,000 TO ADMINISTER THE STARTUP PHASE OF THE TECHNICAL ASSISTANCE ELEMENT OF THE CITY OF OAKLAND EAST BAY BUS RAPID TRANSIT (BRT) PROJECT BUSINESS IMPACT MITIGATION FUND

WHEREAS, on April 25, 2012, the Alameda - Contra Costa County (AC) Transit District Board of Directors adopted Resolution No. 12-018 certifying the Final Environmental Impact Report/Statement (FEIR/FEISS) for the East Bay Bus Rapid Transit Project, and selection of the Downtown Oakland – San Leandro Alternative (DOSL) as the Locally Preferred Alternative for the BRT Project; and

WHEREAS, on July 17, 2012, the Oakland City Council adopted its own CEQA-related findings of AC Transit for the BRT Project; adopted the DOSL as the Locally Preferred Alternative for the BRT Project; and required that the AC Transit append the City Conditions of Approval (COA) to the BRT Project (Resolution No. 84106 C.M.S.); and

WHEREAS, Resolution No. 84570 C.M.S authorized the City Administrator to enter into Master Cooperative Agreement (MCA) with AC Transit for Final Design and Construction of the BRT Project, and the MCA attaches COA Standards and Cost Estimates; and

WHEREAS, the COA Standards require that AC Transit submit a draft Business Impact Mitigation Plan and a corresponding draft Parking Impact Mitigation Plan for the Oakland City Council review on or before the completion of the 65% Design Phase, and return to Council with an update on or before completion of the 95% Design Phase of the BRT Project; and

WHEREAS, Resolution No. 84570 C.M.S. urges AC Transit to set aside in abeyance sufficient dollars to implement a comprehensive BRT - Business Impact Mitigation Fund (BIM-F) and urges City staffers to actively seek out additional, more flexible private and/or public funding and supportive services to supplement the BIM-F; and

WHEREAS, Resolution No. 84570 C.M.S. also urges AC Transit to consult with and include stakeholder representatives with neighborhood expertise from the Unity Council, Allen Temple, and East Bay Asian Youth Center, and AC Transit subsequently formed a Community Outreach Working Group (COWG) in the development of the P/BIM-P, the expanded group includes the East Bay Asian Local Development Corporation, Downtown Oakland and Uptown Lake Merritt District Associations, OCCUR and Transform; and

WHEREAS, the City and AC Transit staff have worked cooperatively to identify project cost savings and to jointly meet with the COWG to develop a more robust Business Impact Mitigation Fund with the primary objectives of strengthening the ability of existing businesses to proactively prepare and effectively manage adverse conditions that may occur during periods of construction and fully exploit beneficial opportunities that may arise after construction is completed; and

WHEREAS, the City of Oakland and AC Transit agree that a well-implemented BRT project will have beneficial impacts to the businesses along the Corridor and that the overall project success will be further enhanced by targeted business support and development services through the City of Oakland; and

WHEREAS, in April 2014, the Oakland City Administrator and AC Transit General Manager agreed in principle to add up to \$2,500,000 in AC Transit funds to the BIM-F to establish a Business Sustainability Program to be managed and implemented by the City;

WHEREAS, the City Administrator and General Manager further agreed that AC Transit will provide a \$500,000 start-up grant to the City for technical assistance program development activities, after which AC Transit will provide up to \$2,00,000 in additional funding exclusively for the Business Sustainability Program (BSP); and

WHEREAS, the BSP agreement is based on the City matching \$2,000,000 for other activities, Housing and Community Development staffers have proposed that \$1,000,000 in future CDBG funding be allocated to the BSP contingent upon availability from HUD, and the additional \$1,000,000 in matching funds will come from a one-time General Purpose Fund (1010) allocation approved by Council on July 1, 2014; and

WHEREAS, the AC Transit BRT Construction Impact Mitigations are currently budgeted at \$8,816,000, the AC Transit BRT Business Support Activities are budgeted at \$2,165,000, and the newly proposed AC Transit Business Sustainability Program contribution is budgeted at \$2,500,000, bringing the baseline AC Transit BIM-F contribution to \$13,481,000; and

WHEREAS, the Eastbay BRT Project overall adds to the revitalization efforts for the entire International Boulevard and the other corridor segments of the BRT route in Oakland; and that AC Transit and the City's additional investment of \$7.98 million in funding to support business sustainability activities related to this major transit oriented development will not have any implications or establish standards for future AC Transit, City or other major transit developments and/or capital project budgets going forward; and

WHEREAS, the City of Oakland has contracted with the Oakland Business Development Corporation (“OBDC”) since 1979 and, pursuant to Resolution No. 84344 C.M.S., the City of Oakland is currently contracting with OBDC for technical assistance services and loan marketing and underwriting services.

WHEREAS, OBDC is uniquely qualified to provide Technical Assistance to businesses operating along the BRT corridor to increase business productivity and offset a potential decline in business revenue and profitability during the BRT project. OBDC’s technical assistance involves conducting a detailed assessment to uncover business risks and opportunities, developing business and action plans, providing access to the correct resources, and educating and working closely with business owners to achieve economic success; and

WHEREAS, OBDC effectively manages loan programs for the City of Oakland as well as its own lending programs and has demonstrated the capacity to provide unique technical assistance services to small businesses to further the City’s goals of attracting, expanding, and retaining Oakland businesses, creating business and job opportunities for low and moderate income Oakland residents in particular; and

WHEREAS, the effective partnering of resources and expertise with OBDC furthers the City Council’s goals of coordinating City services in order to attract and support existing businesses emphasizing sustainability (particularly the creation and retention of jobs for Oakland’s low-moderate income residents), especially in neighborhood commercial areas like International Boulevard; and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.051.A requires staff to conduct a competitive Request for Proposal/Qualification (RFP/Q) selection process for the procurement of professional services; and

WHEREAS, OMC Title 2, Chapter 2, Article I, Section 2.04.051.B permits the Council to waive the competitive RFP/Q competitive selection requirement upon a finding and determination that it is in the best interests of the City to do so; and

WHEREAS, staff recommends that it is in the City’s best interests to waive the competitive RFP/Q selection requirement for the professional services authorized hereunder because the Oakland Business Development Corporation’s unique knowledge, technical assistance program experience, certifications from the US Small Business Administration (SBA), US Department of the Treasury, and approval from the Department of Housing & Urban Development (HUD) to act as the City of Oakland Loan Administrator since 1979; and

WHEREAS, OBDC has successfully managed discreet federal, local and foundation grant and loan programs as well as restricted accounts and OBDC has the administrative, fund management and reporting framework in place to comply with the requirements of AC Transit grant requirements as well as the City of Oakland; and

WHEREAS, the BRT Construction activities will begin in winter 2014 with advanced utility, parking lot construction and the Fruitvale Bypass construction, affecting business activities along the Oakland BRT and Bypass routes and there is an urgency to be begin the business technical assistance program prior to construction activities; and

WHEREAS, OBDC is prepared to readily start efforts in business outreach, technical assistance and loan services as needed for businesses that might be impacted by any BRT related construction activities; and the process to release a Request for Proposals is expected to take several months; and

WHEREAS, the City Council finds that the Agreement with OBDC is for services of a professional or specialized nature to provide full technical assistance services to an array of businesses from startup, micro-enterprises, small, mid and large businesses serving low- and moderate-income residents and businesses as well as providing technical assistance and lending activities to all residents and businesses located throughout the City of Oakland; and

WHEREAS, the City Council finds and determines that the services under this contract will be temporary and performance of the 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 pursuant to OMC Section 2.04.051.B and for the reasons stated above and in the city administrator's report accompanying this Resolution, the Council hereby finds and determines that it is in the best interests of the City to waive the competitive RFP/Q competitive selection requirements for the above agreement, and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized to conduct negotiations to enter into an professional services agreement with OBDC or execute a new and separate professional services agreement with the Oakland Business Development Corporation (OBDC) in an amount not to exceed five hundred thousand dollars (\$500,000); and amend, modify or extend the agreement term as needed and take any other action necessary with respect to the contract or amendment consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That this \$500,000 is part of the \$2,500,000 in BRT Project cost savings that AC Transit has agreed to add to the BIM-F to establish a Business Sustainability Program (BSP), and monies are available in Miscellaneous Grants Fund 2999; ADA Programs Organization 30214; BRT Capital Improvement Program Project P472240; ACT Transit BRT Program W985; and be it

FURTHER RESOLVED: That the City Administrator, or his designee, will coordinate with the AC Transit General Manager, or his designee, and ensure that where BRT Project funds are expended the procurement and reporting processes fully comply with Federal Transit Administration requirements governing expenditure of BRT Project funds; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to execute any amendments or modifications to said agreements with the exception of those related to an increase in total compensation or the allocation of additional funds, and provided that such amendments or modifications shall be reviewed by the City Attorney and filed with the City Clerk's Office; and be it

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

NOV 18 2014

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE

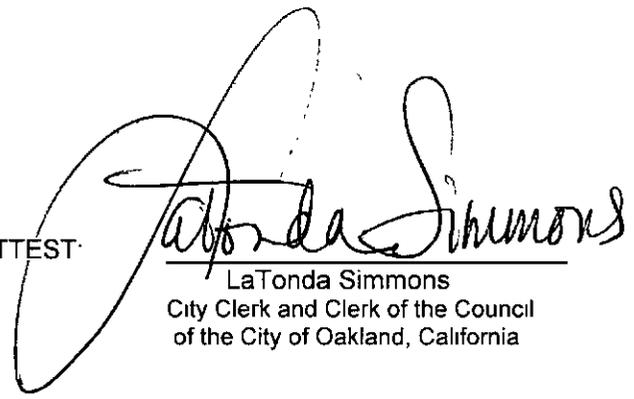
AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF
AND PRESIDENT KERNIGHAN -8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST



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