

CITY OF OAKLAND

Interoffice Letter

To: City Manager

Attention: Henry L. Gardner

Date: June 16, 1992

From: Office of Parks and Recreation

Subject: Resolution Authorizing an Agreement between the City of Oakland and East Bay Zoological Society for project management services associated with various Oakland Zoo improvement projects from June 16, 1992 through April 1, 1994.

BACKGROUND

Measure K was passed by the voters in November 1990 for the purpose of making key open space acquisitions and long overdue improvements to park and recreational facilities. The authorized \$60 million in general obligation bonds is scheduled for sale in five separate series over a 12 year period. In authorizing the sale of the initial \$12 million in Series 1991A bonds, the City Council determined that the resulting funds would be allocated to fourteen development projects, half of which were to be implemented by specified community organizations and/or the City of Emeryville.

General Community Organization Implementation Process

The approach of using community organizations, rather than City staff, to complete capital project work for various development projects funded with Measure K monies is unique. While EBZS had previously completed municipal capital improvements, the Society had not previously been required to conform with City regulations regarding the need for paying prevailing wages, meeting public art and/or formal bid requirements, contractual obligations, Measure K bond covenant provisions, etc. In an effort to facilitate their work on these projects, staff developed a *Measure K Procedural Manual* in October, 1991, which detailed overall Measure K program requirements and the step-by-step procedures which would need to be followed in order to comply with Measure K bond covenants and general City policies.

The *Measure K Procedural Manual* noted that the City Council would need to approve a master agreement between the City and each community organization in order to provide the legal framework under which Measure K monies could be distributed to the responsible group, allowing them to complete work on designated projects. Toward that end, EBZS submitted a Measure K program application form including the base information which would need to be incorporated into a master agreement. Their respective master agreement is now being submitted for review and approval.

Oakland Zoo Improvement Program

In 1990, the Oakland Zoo/Knowland Park Master Plan was adopted. The Master Plan detailed over \$17 million dollars in required capital improvements which would be necessary to make the Oakland

Zoo a first class facility. It was anticipated that, due to the amount of money and physical effort required to both install new improvements and maintain the existing service base, the capital program would need to be phased over a ten to fifteen year period. As a result, the Oakland Zoo Measure K Series 1991A improvement program involves fifteen small capital projects including:

- a. **Siamong Island.** The plan here involves the removal of the existing pond, railing, planting and old nighthouse for flamingos; the construction of a concrete block nighthouse and 12' foot moat around siamong gibbons' island; and the installation of appropriate rockwork, mudbank, and landscaping.
- b. **Hamadryas Baboon Improvements.** This project entails the removal of the existing nighthouse wood facade and replacing it with granite artificial cliff-face.
- c. **Environmental Education Center.** The focus of this project is to design a new 6,500 square foot education center including two classrooms, a seventy seat auditorium, docent library, education offices, animal care area, recycling demonstration area, an ecology garden, and parking space (construction will be completed in a later phase).
- d. **Snow Building Improvements.** This maintenance effort involves replacing the roof, installing landscaping, painting, and minor miscellaneous repair work.
- e. **Giraffe Exhibit Repairs.** This project entails replacing the existing dry rotted roof on giraffe barn, constructing giraffe loading chute and restraint device, repairing leaks in the waterfall and moat; and acquiring giraffes and other plants and animals appropriate for this exhibit.
- f. **Sun Bear Improvements.** This project involves the renovation of two old concrete bowl enclosures which currently house the African lions and Sun Bears with additional rockwork, landscaping, an artificial tree, and reinforced barrier and acquiring plants and animals appropriate for this exhibit.
- g. **Signage Improvements.** The intent here is to provide additional education graphics for various exhibits along with additional traffic and pedestrian use directional signs.
- h. **Picnic Area Improvements.** This maintenance project involves repairs to existing plumbing, asphalt, barbecue pits, and the resurfacing of the picnic tables in the large group picnic areas in lower Knowland Park.
- i. **Main Park Entrance.** The intent here is to widen, lengthen, and improve the main entrance in conformance with the details included in the Oakland Zoo/Knowland Park Master Plan including grading and installing a new retaining wall, new asphalt, construction of new entry kiosks, and appropriate landscaping.
- j. **Administrative Office Expansion.** This project involves the purchase of a portable office which will be placed adjacent to the existing portable administrative offices and the installation of interior finishings, restrooms, and a kitchen facility in the Talbot House.

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- n. **Sewer Lines.** This project involves the replacement of portions of the sanitary and storm sewers which have been invaded by tree roots.
- o. **Lower Park Restrooms.** The plan here is to redesign, upgrade fixtures, and repair plumbing problems in the lower park restrooms.

General

The Oakland Zoo improvement efforts are to be completed by April 1, 1994 with funds provided through the Measure K Bond Issue. EBZS will be contracting with various professional design services providers, construction contractors, as well as using their own work force to install all of the various physical improvements which will be required. Representatives from the Office of Public Works' Architectural Services, Contract Compliance, and Construction Management Divisions as well as the Office of General Services' Electrical and Maintenance Divisions will be joining OPR staff in the providing support oversight and construction management services in accordance with City policies, including related Affirmative Action and Equal Employment Opportunity requirements.

This item was reviewed and approved by the Parks and Recreation Advisory Commission at their May 27, 1992 meeting.

The total cost for completing the various improvement projects at the Oakland Zoo exceeds \$16 million dollars. \$1,000,000 has been provided in Measure K Series 1991 funds toward this effort; an additional \$9 million dollars in Measure K funds will be provided in subsequent series. EBZS will be contributing volunteer services and donations valued at over \$1,000,000 in an effort to assure the completion of the fifteen improvement projects within the designated Series 1991A monies.

RECOMMENDATION

That the City Council Committee on Cultural Services approve a resolution authorizing an agreement with the East Bay Zoological Society for project management services associated with various Oakland Zoo improvement projects from June 16, 1992 through April 1, 1994.


H. K. WHITE
Director

APPROVED FOR FORWARDING TO THE CITY
COUNCIL COMMITTEE ON CULTURAL SERVICES

Office of the City Manager

HKW:KJR

CITY OF OAKLAND

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General

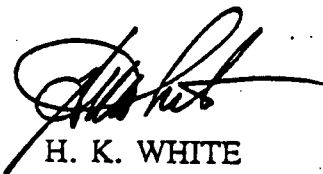
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Director

APPROVED FOR FORWARDING TO THE CITY
COUNCIL COMMITTEE ON PUBLIC WORKS:

Office of the City Manager

CITY OF OAKLAND

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This item was reviewed and approved by the Parks and Recreation Advisory Commission at their May 27, 1992 meeting.

This matter was reviewed by the City Council Committees on Cultural Services and Public Works at their June 16, 1992 meetings. At the request of the East Bay Zoological Society, which needs to immediately proceed with design and engineering work in order to meet the completion deadline of April 1, 1994, City Council approval is concurrently being sought on June 16, 1992.

The total cost for completing the various improvement projects at the Oakland Zoo exceeds \$16 million dollars. \$1,000,000 has been provided in Measure K Series 1991 funds toward this effort; an additional \$9 million dollars in Measure K funds will be provided in subsequent series. EBZS will be contributing volunteer services and donations valued at over \$1,000,000 in an effort to assure the completion of the fifteen (15) improvement projects within the designated Series 1991A monies.

RECOMMENDATION

That the City Council approve the resolution authorizing an agreement with the East Bay Zoological Society for project management services associated with various Oakland Zoo improvement projects from June 16, 1992 through April 1, 1994.



H. K. WHITE
Director

APPROVED FOR FORWARDING
TO THE CITY COUNCIL:

Office of the City Manager

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**MASTER AGREEMENT BETWEEN THE CITY OF OAKLAND
AND THE EAST BAY ZOOLOGICAL SOCIETY**

THE OAKLAND ZOO PROJECT

This Agreement is made and entered into this ____ day of _____ 1992 by and between the City of Oakland, hereinafter called "CITY" and the East Bay Zoological Society, a California charitable nonprofit corporation, hereinafter called "PROJECT MANAGER".

WITNESSETH

WHEREAS, the City of Oakland, and the East Bay Zoological Society are interested in making various improvements at the Oakland Zoo, hereinafter called "PROJECT" and

WHEREAS, the PROJECT is intended to address the need for improvements to various animal exhibits; educational and informational signage; facilities; general picnic areas; and the Zoo's grounds, irrigation, and sewers identified in the 1990 Oakland Zoo/Knowland Park Master Plan; and

WHEREAS, the development of these projects would be of benefit to the Oakland Zoo, the CITY and the Oakland community at large; and

WHEREAS, the CITY, by City Council resolution, will provide one million dollars (\$1,000,000) of Measure K funds for the planning, development and construction of the PROJECT; and

WHEREAS, the CITY desires to retain the PROJECT MANAGER to plan, develop and construct the PROJECT.

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements herein set forth, the parties do hereby agree as follows:

1. **SCOPE OF SERVICES**

The PROJECT MANAGER shall:

- A. Develop plans and specifications, subject to prior review and approval by CITY, for the construction PROJECT, including but not limited to construction improvements to various animal exhibits (Siamang Island, Giraffe, Sun Bear, Phase 3 Primates, and Hamadryas Baboon); signage improvements to various exhibits and the main park entrance; facility improvements including work on the Snow Building, education center, administrative offices, gift shop, veterinary hospital, and lower park restrooms; picnic area improvements; and grounds and maintenance improvements including park

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY
Page 2**

irrigation, the installation/replacement of pathway railings, and sewer projects. Construction is to be complete by April 1, 1994 with funds provided through the Measure K Bond Issue. A draft architectural rendering of the proposed PROJECT is attached hereto as Exhibit A and incorporated herein by reference. The plans and specifications shall be placed on file in the Office of Park and Recreation (OPR), 1520 Lakeside Drive, Oakland, California 94612-4598, and incorporated by reference in this Agreement. Said plans and specifications shall be in conformity with all applicable Federal, State and local laws and regulations.

City shall review and approve or specify in writing the specific portions of any plans or specifications which it disapproves and the reasons therefor within 12 - 20 business days after PROJECT MANAGER's written request for such review and approval.

- B. Request and select bids in accordance with City regulations for all work necessary to design and/or construct the PROJECT in accordance with City approved plans and specifications which must be reviewed prior to bid publication. PROJECT MANAGER is authorized to use sole source vendors without publication and bidding for the design, construction and installation of artificial rock work and mid banks and for the acquisition or exotic animals. Upon the finding and determination of the City Council that one of the provisions of § 5(1) of Ordinance No. 7937 C.M.C. applies. The use of additional sole source vendors without publication and bidding for any other portions of the PROJECT may be subsequently approved by the City Council pursuant to the above sections. PROJECT MANAGER shall tender to CITY a copy of all professional service and construction contracts. The CITY's Affirmative Action and Equal Employment Opportunity Requirements shall apply in all work related to construction of the PROJECT.
- C. Manage and oversee all phases of the construction of the PROJECT in conjunction with CITY staff who will inspect and approve all phases of the PROJECT. In the event that following bidding of the PROJECT it is determined that the Measure K funds provided

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY
Page 3**

by the City herein will not be sufficient to cover completion of the PROJECT as described in the Scope of Services, the City agrees to meet and confer with PROJECT MANAGER regarding modification of the Scope of Services.

2. PROGRESS REPORT

PROJECT MANAGER shall provide the CITY at a minimum with quarterly written progress reports which will include financial information in the format specified by the CITY.

3. GENERAL PERFORMANCE

It is understood and agreed that PROJECT MANAGER will obtain services from individuals and/or companies licensed in the State of California to perform the work agreed to be performed under this Agreement and that CITY shall rely upon these special skills to do and perform this work in the most skillful manner. PROJECT MANAGER agrees to insure such performance of any and all work and the acceptance by CITY of the work performed under this Agreement does not operate as a release of PROJECT MANAGER from insuring such professional responsibility. It is PROJECT MANAGER's responsibility to comply with all local, state, and federal laws, codes, and directives including, but not limited to, the California Environmental Quality Act (CEQA), in the performance of this Agreement.

4. TIME OF PERFORMANCE

All work required pursuant to this Agreement shall commence upon receipt of written notice to proceed from the CITY. The various capital improvement projects at the Oakland Zoo shall be completed no later than April 1, 1994.

5. COMPENSATION AND METHOD OF PAYMENT

A. Maximum Compensation

The total compensation for eligible costs in accordance with this Agreement and the budget, attached hereto as Exhibit "B", and specifically made a part hereof, shall not exceed One Million Dollars (\$1,000,000). Any costs above this amount necessary for the completion of the

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY
Page 4**

work to be performed under this Agreement shall be the responsibility of the PROJECT MANAGER. Eligible costs include general development costs of plans and specifications by PROJECT MANAGER, construction costs, and administrative services which are not to exceed 15% of the total project funds, in overseeing all phases of construction.

Any requested modification to the line items of the Budget attached as Exhibit "B" shall be reviewed by the CITY. Contractor may exceed or reduce the budgeted amount for each item in the budget by not more than 10%, provided that the total contract amount is not exceeded. Any of the cost categories shown in the Budget may be exceeded by 10% of the indicated figure, provided that the total approved amount of allowable costs is not exceeded and written approval of the City is obtained. Budget modifications shall not alter:

- (1) The basic scope of services required to be performed under this Agreement;
- (2) The time period for the services to be performed under this Agreement; and
- (3) The total amount of the authorized budget of this Agreement (see Exhibit ____).

B. Method of Payment

An initial payment of \$100,000 for estimated expenses to be used for the PROJECT MANAGER'S start-up costs shall be advanced by the CITY from Measure K funds upon execution of this Agreement. This amount shall not exceed 10% of the total contract amount to be awarded for this PROJECT.

PROJECT MANAGER shall document all uses of the funds and present such documentation to the CITY for approval. Subsequent to the initial advance payment, PROJECT MANAGER shall be directly paid through requisitions supported by detailed documentation that is reasonably sufficient to support payment as determined by CITY. The check issued to PROJECT MANAGER will be written to both the PROJECT MANAGER and any contractor, subcontractor, vendor, or any other person performing work in this PROJECT, in cases where reimbursement or payment is involved.

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY**

Page 5

Required requisitions and reports must be submitted to the PROJECT staff of OPR for review on or before the 10th working day of the month. The PROJECT staff for OPR will verify and approve requisitions and required supporting documents for accuracy and compliance with bond covenants prior to submitting them to CITY for payment. City shall release and issue its payment on or before the last day of the calendar month for all requisitions and reports submitted prior to the tenth working day of that month provided PROJECT MANAGER complies with all these requirements.

PROJECT MANAGER'S failure to comply with these requirements will cause a delay in payment and could result in termination of the Agreement. All authorized obligations incurred in the performance of the Agreement must be reported to the CITY within sixty (60) days following the termination of the Agreement. No claims submitted after the 60-day period will be recognized as binding upon the CITY for payment. Any obligations and/or debts incurred by the PROJECT MANAGER and not reported to the CITY within the 60-day period become the sole liability of the PROJECT MANAGER and the CITY is relieved of any and all responsibilities.

6. FINANCIAL CONTRIBUTION

PROJECT MANAGER acknowledges that the amount of payment by CITY under this Agreement may not pay for all of the services which PROJECT MANAGER has agreed to perform. PROJECT MANAGER agrees to raise funds through PROJECT MANAGER'S own fundraising efforts and/or provide volunteer or other in-kind services using non-CITY sources.

7. WORKING FACILITIES

PROJECT MANAGER shall not be provided CITY working facilities.

8. PREPARATION OF DOCUMENTS AND OWNERSHIP

It is hereby understood that any and all documents pertaining to Oakland Zoo projects' development, and construction, including applicable "as built" drawings, will be created in accordance with generally accepted industry standards and shall be properly produced to give good reproductions. All development documents and drawings shall remain the property of CITY and shall be

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY
Page 6**

delivered by PROJECT MANAGER to the CITY promptly at the CITY's request or at the termination of this Agreement, whichever is earlier.

PROJECT MANAGER shall execute appropriate documents and drawings to assign to the CITY the copyright to works created pursuant to this Agreement.

9. FINANCIAL REQUIREMENTS

The PROJECT MANAGER shall be accountable to the CITY for all funds requested by and released to PROJECT MANAGER pursuant to this Agreement and the disbursement thereof. PROJECT MANAGER shall maintain a full set of books on a double entry basis in accordance with generally accepted accounting principles, procedures, and regulations as deemed necessary by the CITY. Such records shall be properly maintained by qualified personnel. All financial reports and schedules shall be prepared in accordance with generally accepted accounting principles and in accordance with applicable City requirements.

10. INDEPENDENT CONTRACTOR

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, the PROJECT MANAGER shall be, and is, an independent contractor, and is not an agent or employee of the CITY. PROJECT MANAGER has and shall retain the right to exercise full control and supervision of the services, and full control over employment, direction, compensation and discharge of all persons assisting PROJECT MANAGER in the performance of PROJECT MANAGER's services hereunder. PROJECT MANAGER shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for PROJECT MANAGER's own acts and omissions and those of PROJECT MANAGER's subordinates and employees.

11. PREVAILING WAGES

PROJECT MANAGER shall comply with the CITY's prevailing wage requirements, as set forth in Resolution No. 57103, for wages paid to laborers and mechanics on public works. PROJECT MANAGER shall insert similar provisions in all agreements with contractors for work covered by this

Agreement and require that all of its contractors pay prevailing wages.

12. CONSTRUCTION DOCUMENTS

Prior to the solicitation of Requests for Qualification (RFQ) and/or public distribution and advertisement for bids for the construction work on the PROJECT, PROJECT MANAGER shall submit to CITY the final plans and specifications and the proposed construction contract for the work to be performed. These documents shall be subject to the review and approval of the CITY.

13. PERFORMANCE AND PAYMENT BONDS

PROJECT MANAGER shall obtain and maintain in full force and effect until the completion of the PROJECT a performance and payment bond in the amount of one hundred thousand dollars (\$100,000.00.) To further reduce the risk of loss arising from performance and payment issues PROJECT MANAGER shall, throughout the term of this Agreement, obtain appropriate lien releases from each contractor, subcontractor and supplier immediately upon satisfactory completion and payment for their respective works.

14. TERMINATION

The CITY may terminate this Agreement immediately for cause, and without cause, upon thirty (30) days written notice of discontinuance and termination of said Agreement. Such notice shall be made in accordance with the "Notices" section of this Agreement.

15. ABANDONMENT OF PROJECT

CITY shall have the right to abandon or indefinitely postpone the PROJECT or the services for any or all of the PROJECT at any time. In such event, CITY shall give thirty (30) days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, the PROJECT MANAGER shall have the right to expend reasonable additional time to assemble work in progress for the purpose of proper filing and closing of the job. Prior to expending said time, the PROJECT MANAGER shall present to CITY a complete report of said proposed job closure and its costs, and the CITY may approve all or any part

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
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Page 8**

of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by CITY, together with any other charges outstanding at the time of termination, shall be payable by CITY within thirty (30) days following submission of a final statement by PROJECT MANAGER.

Should the project or any portion thereof be abandoned, CITY shall pay the PROJECT MANAGER for all services performed theretofore in accordance with the terms of this Agreement.

16. **BROKERS**

The PROJECT MANAGER warrants that PROJECT MANAGER has not employed or retained any broker, agent, company or person other than bona fide, full-time employees of the PROJECT MANAGER working solely for the PROJECT MANAGER, to solicit or secure this Agreement, and that PROJECT MANAGER has not paid or agreed to pay any broker, agent, company or persons other than bona fide employees any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

17. **EQUAL EMPLOYMENT PRACTICES**

PROJECT MANAGER shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws.

During the performance of this Agreement, the PROJECT MANAGER agrees as follows:

- A. The PROJECT MANAGER and PROJECT MANAGER's contractors and subcontractors will not discriminate against any employee or applicant for employment because of sex, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or handicap. The PROJECT MANAGER and PROJECT MANAGER's contractors and subcontractors will take

**MASTER AGREEMENT BETWEEN
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affirmative action to ensure that applicants for employment and employees are treated without regard to their sex, sexual preference, race, creed, color, national origin, Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The PROJECT MANAGER agrees to post, in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The PROJECT MANAGER and PROJECT MANAGER's contractors and subcontractors will, in all solicitations or advertisements for employees placed by or on behalf of the PROJECT MANAGER, state that all qualified applicants will receive consideration for employment without regard to sex, sexual preference, Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), handicap, race, creed, color or national origin.
- C. If applicable, the PROJECT MANAGER will send to each labor union or representative with whom PROJECT MANAGER has a collective bargaining Agreement, contract, or memorandum of understanding, a notice advising the labor union or workers' representative of the PROJECT MANAGER's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The PROJECT MANAGER will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- E. In the event of PROJECT MANAGER's or PROJECT MANAGER's contractor's and subcontractor's noncompliance with the nondiscrimination clause of this Agreement, this Agreement may be rescinded or modified.

18. AFFIRMATIVE ACTION

- A. Professional Services Contracts: PROJECT MANAGER shall require any architect, engineer, or any other professional person or corporation, who contracts with PROJECT MANAGER to perform professional services on the PROJECT, to comply with the CITY'S Professional Services Contract Program. Said program's affirmative action goals for minority and women business participation are 40% minorities and 15% women, and establish workforce goals of 30% minorities and 15% women on a job-category by job-category basis.
- B. Construction Contracts: PROJECT MANAGER shall require any contractor who contracts with PROJECT MANAGER to perform any type of work on the PROJECT, other than as is listed in section 19A above for professional services, to comply with the CITY'S Minority and Women Business Enterprise Construction Program goals, which are 30% minority business enterprise participation and 5% women business enterprise participation, and the CITY'S affirmative action employment program provisions for Public Works Contracts which establish a goal of 50% minority participation and 6.9% women participation on a craft by craft basis.
- C. PROJECT MANAGER must meet the requirements of sections 19A and 19B if the PROJECT MANAGER performs any work itself on the PROJECT.

19. SOUTH AFRICA ORDINANCE (CITY OF OAKLAND ORDINANCE NO. 10893 C.M.S)

PROJECT MANAGER shall execute affidavits to comply with Ordinance No. 10893 C.M.S. that certify that PROJECT MANAGER shall forego any contractual relations to provide professional services to:

- A. The government of South Africa or the government of Namibia;
- B. Any business or corporation organized under the laws of South Africa or Namibia;
- C. Any business or corporation for the express purpose of assisting in operations in or trading with any public or private entity located in South Africa or

Namibia.

20. AUDIT AND INSPECTIONS

PROJECT MANAGER shall permit, at any time and as often as CITY deems necessary, the CITY and its authorized representatives to have access to PROJECT MANAGER's books, records, accounts and any and all data relevant to this Agreement, for the purpose of making an audit or examination for a period of four years following the fiscal year of the last expenditure under this Agreement. PROJECT MANAGER shall permit and facilitate observation and inspection of the work and records at PROJECT MANAGER's principal office and job site by CITY, its employees, agents, public authorities and other designees, during reasonable business hours. PROJECT MANAGER acknowledges that with funds from a public bond issue, all records related to expenditures are subject to public review.

21. INDEMNIFICATION

PROJECT MANAGER agrees to save, indemnify, defend and hold harmless, CITY, its Councilmembers, directors, officers, agents and employees from any and all claims, losses and expenses (including reasonable attorney's fees) or liability on account of damage of property or injury to or death of persons accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Agreement by the PROJECT MANAGER and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the PROJECT MANAGER in the negligent performance of this Agreement. PROJECT MANAGER shall require any party with whom it contracts, including but not limited to any contractors or subcontractors, to include an indemnification clause indemnifying the CITY. Said indemnification shall be identical to the language of this indemnification clause with respect to indemnification of the CITY.

22. INSURANCE

The PROJECT MANAGER shall procure and keep in force for the length of time specified in the following sections, at PROJECT MANAGER's own cost and expense, the following

**MASTER AGREEMENT BETWEEN
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Page 12**

policies of insurance with companies doing business in California and which are acceptable to CITY. PROJECT MANAGER upon request shall provide CITY with copies of all insurance policies. PROJECT MANAGER shall provide City with certificates showing such policies are in force with the written under taking of each insurer to give CITY thirty (30) days prior written notice of cancellation, termination or material change of such insurance coverage. The insurance shall at a minimum include:

- A. Workers' Compensation insurance as required by the laws of the State of California during the term of this Agreement. The policy may include Employee Liability coverage with limits not less than \$1,000,000. PROJECT MANAGER shall include in all agreements with contractors, subcontractors and/or sub-subcontractors that the latter are aware of the provisions of section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code. PROJECT MANAGER shall require in all agreements with contractors subcontractors, and sub-subcontractors that said contractors, subcontractors, and sub-subcontractors comply with the provisions of section 3700 of the Labor Code before commencing the performance of the work under this Agreement.

- B. Commercial General Liability insurance, including but not limited to, Personal Injury, Broad Form Property Damage, Contractual (as needed), Products and Completed Operations or Owners and subcontractor Protective Liability. The policy shall contain a severability of interest clause or cross liability clause or the equivalent thereof. The policy shall be enforced to include the following:
 - 1) The CITY, its Councilmembers, directors, officers, agents and employees as additional insureds.

 - 2) The coverage afforded on behalf of the CITY shall be primary insurance and any other insurance available to the CITY under any other policies shall be in excess of the insurance required hereby.

3) Limits of liability:

Bodily Injury - \$1,000,000 minimum
Property Damage - \$500,000 minimum

Combined Single Limit Per Claim or
Occurrence - \$1,000,000 minimum

Personal Injury - \$1,000,000 minimum

4) If the policy is a "claims made" type policy,
then the following should be included as
endorsements:

a) The retroactive date shall be the
effective date of this Agreement or a
prior date.

b) The extended reporting or discovery
period shall not be less than thirty-six
(36) months.

C. PROJECT MANAGER shall obtain insurance coverage
prior to beginning any work.

D. Automobile liability insurance, including all
owned, non-owned and hired automobiles with the
following minimum Bodily Injury and Property Damage
- \$500,000 Combined Single Limit. The policy shall
be endorsed to include the following:

The CITY, its Councilmembers, directors,
officers, agents and employees, as additional
insured as respects the use of owned, non-
owned and hired automobiles by the
contractors, subcontractors and/or sub-
subcontractors, officers, employees and agents
in the performance of this contract.

E. Errors and Omissions/Professional Services
Liability insurance in the amount of one hundred
thousand dollars (\$100,000.00). City shall be
required by any subcontractors performing
architectural or engineering services

F. Notification of cancellation, which at a minimum
requires insurer's notification of the CITY in
writing within thirty (30) days of the expiration
of any "claims made" insurance, General Liability

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Page 14**

or Errors and Omissions insurance policy, which is cancelled or the contractor, subcontractor and/or sub-subcontractor does not renew. The contractor, subcontractor and/or sub-subcontractor further agrees to comply with all the policy terms and conditions, obtain a timely quote for the extended reporting or discovery period and promptly pay the full premium required to purchase the required extended reporting or discovery periods as required by this Agreement.

PROJECT MANAGER shall include in all agreements with contractors and subcontractors the following insurance requirements: Commercial General Liability insurance including, but limited to, Personal Injury, Broad Form Property damage, contractual, Products and completed operations or owners limits of liability in the following amounts:

Bodily Injury - \$500,000 minimum
Property Damage - \$250,000 minimum
Combined Single Limit Per Claim or
Occurrence - \$500,000 minimum
Personal Injury - \$500,000 minimum

Said policy or policies shall include a provision naming the City, its Councilmembers, directors, officers, agents, and employees as additional insured.

Additionally said policy or policies shall include a thirty (30) day written notice of cancellation to City.

23. CITY'S ASSUMPTION OF INSURANCE COSTS

In the case of the breach of any of the insurance provisions of this Agreement, CITY may, at CITY option, procure and maintain at the expense of PROJECT MANAGER, such liability and worker's compensation insurance in the name of the PROJECT MANAGER as CITY may deem proper, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to PROJECT MANAGER under this Agreement.

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
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Page 15**

24. POLITICAL PROHIBITION

Monies paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before Federal, State or local government.

25. RELIGIOUS PROHIBITION

There shall be no religious worship, instruction, or proselytization as part of, or in connection with, the performance of this Agreement.

26. CONFLICT OF INTEREST

The following protections against conflict of interest will be upheld:

- A. PROJECT MANAGER certifies that no member of, or delegate to, the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- B. PROJECT MANAGER certifies that no member, officer, or employee of the CITY or its designees or agents, and no other public official of the CITY who exercises any functions or responsibilities with respect to the programs or projects covered by the Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- C. PROJECT MANAGER certifies that no one who has any financial interest in this Agreement or receives compensation for services from PROJECT MANAGER is related by blood or marriage within the third degree to the Mayor or any one or more of the members of the City Council, the CITY, City Manager, or the head of the department to which these services are to be provided pursuant to this Agreement.
- D. PROJECT MANAGER shall incorporate, or cause to be incorporated, in all subagreements for work to be performed under this Agreement a provision prohibiting such interests pursuant to the purposes of this section.

27. ASSIGNMENT

PROJECT MANAGER shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, entity or entities whatsoever without the prior written consent of the CITY and any attempt to assign or transfer without such prior written consent shall be void. Consent to any ~~single assignment~~ or transfer shall not constitute consent to any further assignment or transfer.

28. ATTORNEY'S FEES

If either party prevails against the other in a legal action concerning any aspect of this Agreement, such successful party shall be entitled to recover its reasonable attorney's fees and costs incurred in such action from the losing party.

29. BUSINESS TAX CERTIFICATE

The PROJECT MANAGER shall obtain and provide proof of a valid CITY business tax certificate. Said business tax certificate will be valid prior to and to the conclusion of this Agreement.

30. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California.

31. NOTICES

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, by prepaid U.S. certified or registered postage, addressed to recipients as follows:

CITY: City of Oakland
475 14th Street
Oakland, California 94612
ATTN: Henry Gardner, City Manager

AND

Office of Parks & Recreation
1520 Lakeside Drive
Oakland, California 94612
ATTN: Cleve Williams
Assistant Director

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
ZOOLOGICAL SOCIETY
Page 17**

PROJECT MANAGER East Bay Zoological Society
P.O. Box 5238
9777 Golf Links Road
Oakland, California 94605
ATTN: Dr. Joel Parrott
Executive Director

32. MODIFICATION

This Agreement may be modified by written Agreement of all the parties.

33. DESIGNATED REPRESENTATIVE

The City Manager or his designated representative shall be the person who will represent CITY in all liaisons with PROJECT MANAGER. The following individuals will be responsible for representing PROJECT MANAGER in all communications with CITY and/or others designated by the City Manager: Dr. Joel Parrott; Philip Arca, Assistant Director

34. TAXES

PROJECT MANAGER shall promptly provide the PROJECT MANAGER'S Tax Identification Number to CITY and agree to promptly pay all duly imposed taxes, including but not limited to, any payroll taxes and business license taxes.

35. SIGNS AND INTERPRETIVE AIDS

At the initiation of the Measure K project, at least one temporary sign acknowledging Measure K bond assistance shall be located on or near the project site, to the extent feasible. This sign may indicate the percentage and dollar amount financed by Measure K and non-Measure K funds. Project signs shall remain installed until the completion of the Measure K project. The costs of the required project sign are an allowable project expense for Measure K funding. Project staff within OPR shall provide assistance in developing the temporary sign display information.

36. CONDITION PRECEDENT

The passage by the Oakland City Council of a resolution approving this Agreement is a condition precedent to this Agreement.

**MASTER AGREEMENT BETWEEN
CITY OF OAKLAND/EAST BAY
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Page 18**

IN WITNESS WHEREOF, the CITY and the PROJECT MANAGER have executed this Agreement as of the date first above written.

EAST BAY ZOOLOGICAL SOCIETY

By: _____
DR. JOEL PARROTT, DIRECTOR

THE CITY OF OAKLAND, a municipal
corporation

By: _____
OFFICE OF THE CITY MANAGER

DEPARTMENTAL APPROVAL:

By: _____
OFFICE OF PARKS AND RECREATION

APPROVED AS TO FORM AND LEGALITY:

By: _____
OFFICE OF THE CITY ATTORNEY

The Oakland Zoo
Measure K - Series I Allocation
Overall Budget Summary 1991 - 1993
 Version #3, 12/6/91

<u>Project</u>	<u>Bond Allocation</u>	<u>Other Funding</u>	<u>Total Budget</u>
SIAMANG ISLAND	\$270,000	\$79,100	\$349,100
HAMADRYAS BABOON IMPROVEMENTS	\$35,000	\$0	\$35,000
EDUCATION CENTER	\$110,000	\$1,071,500	\$1,181,500
SNOW BUILDING IMPROVEMENTS	\$35,000	\$0	\$35,000
GIRAFFE EXHIBIT REPAIRS	\$45,000	\$0	\$45,000
PHASE III PRIMATES	\$105,000	\$78,700	\$183,700
SUN BEAR IMPROVEMENTS	\$14,000	\$0	\$14,000
SIGNAGE IMPROVEMENTS			
ELEPHANT	\$16,000	\$0	\$16,000
TIGER	\$8,000	\$0	\$8,000
DIRECTIONAL	\$2,000	\$0	\$2,000
PICNIC AREA IMPROVEMENTS	\$20,000	\$0	\$20,000
MAIN PARK ENTRANCE	\$100,000	\$53,900	\$153,900
ADMINISTRATIVE OFFICE EXPANSION	\$60,000	\$33,550	\$93,550
GIFT SHOP UPGRADE	\$40,000	\$10,000	\$50,000
VETERINARY HOSPITAL IMPROVEMENTS	\$20,000	\$0	\$20,000
PARK IRRIGATION	\$47,000	\$0	\$47,000
PATHWAY RAILINGS	\$9,000	\$0	\$9,000
SEWER PROJECTS	\$15,000	\$0	\$15,000
LOWER PARK BATHROOMS	\$14,000	\$0	\$14,000
TOTAL	\$965,000	\$1,221,750	\$2,186,750

Total Funding Available Reduced by 3.5% for City Administration Fee
 Mandated 1.5% for Public Art Included in Project Budget Estimates

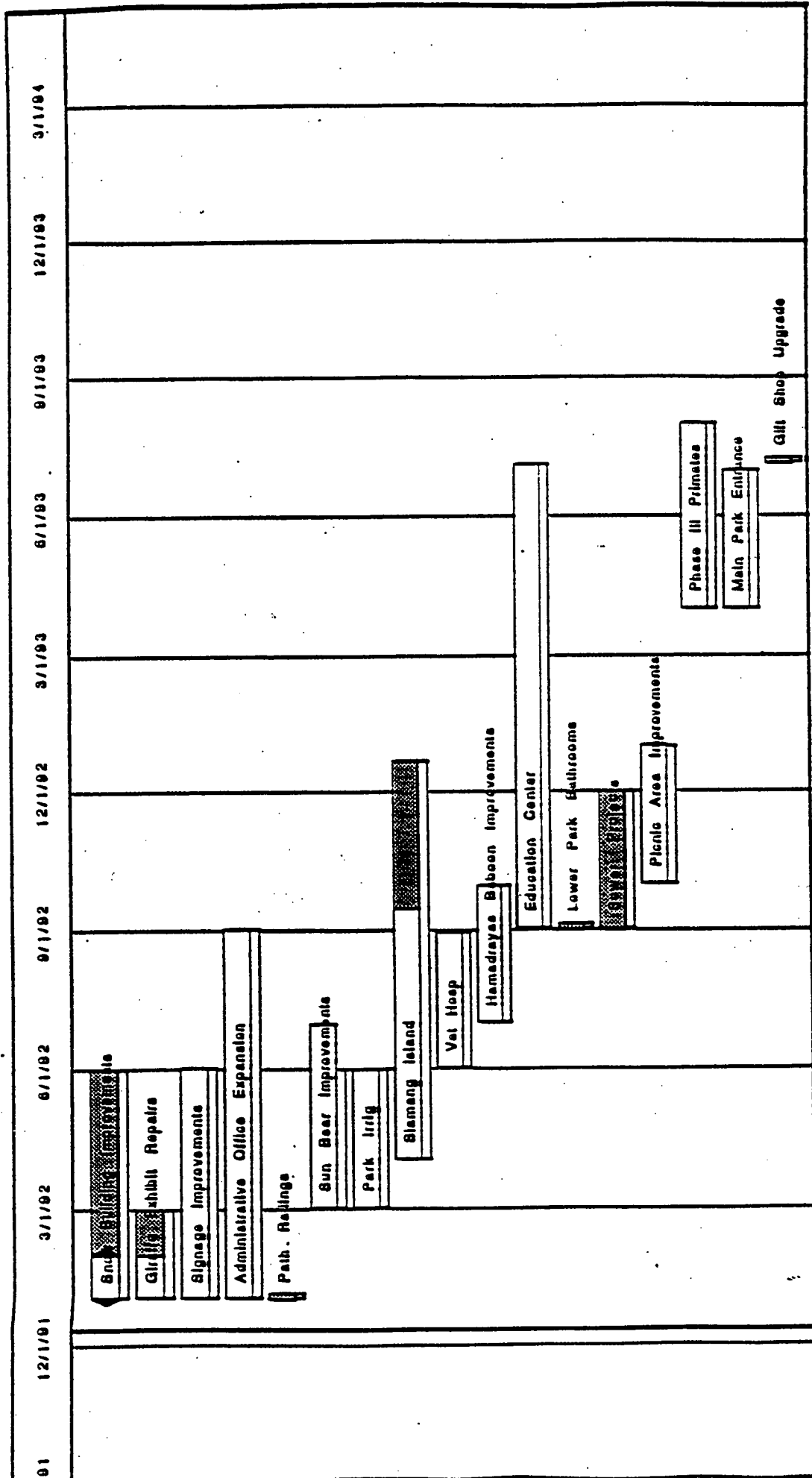
Details of Proposed Project Work

1. **Siamong Island.** Remove existing pond, railing, planting and old nightho concrete block nighthouse and 12 foot moat around siamang gibbons' islan rockwork, mudbank, and landscaping.
2. **Hamadryas Baboon Improvements.** Remove existing nighthouse wood f granite artirical cliff-face.
3. **Environmental Education Center.** Design new 6,500 square foot education center including two classrooms, a seveny seat auditorium, docent library, education offices, animal care area, recycling demonstration area, an ecology garden, and parking space.
4. **Snow Building Improvements.** Replace roof, install landscaping, paint, and do minor miscellaneous repair work.
5. **Giraffe Exhibit Repairs.** Replace existing dry rotted roof on giraffe barn, construct giraffe loading chute and restraint device, repair leaks in the waterfall and moat.
6. **Phase 3 Primates.** Renove three monkey cages, associated concete and asphalt; construct a large lightweight wire mesh enclosure, landscaping, and rockwork to cover the existing nighthouse facility; add new graphics; replace old nighthouse electric heaters with new gas heaters.
7. **Sun Bear Improvements.** Renovate two old concrete bowl enclosures which currently house the African lions and Sun Bears with additional rockwork, landscaping, an artirical tree, and reinforced barrier.
8. **Signage Improvements.** Provide additional education graphics for various exhibits along with additional traffic and pedestrian use directional signs.
9. **Picnic Area Improvements.** Repair existing plumbing, asphalt, barbeque pits, and resurface the picnic tables in the large group picnic areas in lower Knowland Park.
10. **Main Park Entrance.** Widen, lengthen, and improve the main entrance in conformance with the details included in the Oakland Zoo/Knowland Park Master Plan including grading and installing a new retaining wall, new asphalt, construction of new entry kiosks, and appropriate landscaping.
11. **Administrative Office Expansion.** Purchase a portable office which will be place adjacent to the existing portable administrative offices and install interior finishings, restrooms, and a kitchen facility in the Talbot House.
12. **Gift Shop Upgrade.** Remove interior walls; install new plate glass windows, new signage, new floor surfaces, and new shelves; and paint the present education classroom and docent office upon the completion of the Education Center.

Details of Proposed Project Work

Page 2

13. **Veterinary Hospital Improvements.** Construct additional holding areas for sick and quarantined animals, remodel surgery room, remodel storage room for nursery/incubation use, and relocate employee locker room.
14. **Park Irrigation.** Install new irrigation lines into the existing EBMUD water lines for the lower park area private and group picnic areas.
15. **Pathway Railings.** Install new railing to delineate the public pathways adjacent to the elephant and lion exhibits, the skyride, and rides area.
16. **Sewer Lines.** Replace portions of the sanitary and storm sewers which have been invaded by tree roots.
17. **Lower Park Restrooms.** Redesign, upgrade fixtures, and repair plumbing problems in the lower park restrooms.



6-16-92

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

WMA

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE EAST BAY ZOOLOGICAL SOCIETY FOR IMPROVEMENTS AT THE OAKLAND ZOO DURING THE PERIOD JUNE 16, 1992 THROUGH APRIL 1, 1994

WHEREAS, on November 6, 1990, the voters of the City of Oakland approved the Measure K general obligation measure for the purpose of acquiring and developing municipal park, recreation, and open space facilities; and

WHEREAS, passage of said bond measure authorized the City to sell general obligation bonds in five (5) series over twelve (12) years for a total amount of \$60 million; and

WHEREAS, the City has received \$12 million through the Series 1991A sales of said bonds and allocated \$1,000,000 of this amount for the completion of improvements to the Oakland Zoo; and

WHEREAS, the City has retained the services of the East Bay Zoological Society, a California charitable non-profit organization, to administer and procure professional services providers and construction contractors to make various improvements at the Oakland Zoo; and

WHEREAS, the East Bay Zoological Society is qualified to perform said services and expects to have completed work on this project by April 1, 1994.

NOW, THEREFORE, in consideration of mutual promises, covenants, and agreements herein set forth, the parties do hereby agree as follows:

RESOLVED: That the Oakland City Council hereby authorizes an agreement between the City of Oakland and the East Bay Zoological Society, for the period June 16, 1992 through April 1, 1994, and appropriates to the East Bay Zoological Society, an amount not to exceed one million dollars (\$1,000,000) in Measure K Series 1991A bond monies for the completion of various improvements at the Oakland Zoo;

FURTHER RESOLVED: That the City Council hereby appoints the City Manager or his designee as agent of the City to conduct all negotiations, execute and submit all modifications, payment requests and related actions which may be necessary for the completion of the aforementioned agreement in accordance with their specified purposes; and be it

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality and a copy is on file at the Office of the City Clerk.

I certify that the foregoing is a full, true and correct copy of a Resolution passed by the City Council of the City of Oakland, California,

on _____

ARRECE JAMESON
City Clerk and Clerk of the Council

Per _____ Deputy

6-16-92

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

MCA

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE EAST BAY ZOOLOGICAL SOCIETY FOR IMPROVEMENTS AT THE OAKLAND ZOO DURING THE PERIOD JUNE 16, 1992 THROUGH APRIL 1, 1994

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on _____

ARRECE JAMESON
City Clerk and Clerk of the Council

Per _____ Deputy

OAKLAND AND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

6-16-1

WCS

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE EAST BAY ZOOLOGICAL SOCIETY FOR IMPROVEMENTS AT THE OAKLAND ZOO DURING THE PERIOD JUNE 16, 1992 THROUGH APRIL 1, 1994

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FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality and a copy is on file at the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 19 _____

PASSED BY THE FOLLOWING VOTE:

AYES— BAZILE, CANNON, GIBSON HASKELL, MILEY, MOORE, OGAWA, RILES, SPEES, and PRESIDENT HARRIS

NOES—

ABSENT—

ABSTENTION—

ATTEST: _____

ARRECE JAMESON
City Clerk and Clerk of the Council
of the City of Oakland, California

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

MCA

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE EAST BAY ZOOLOGICAL SOCIETY FOR IMPROVEMENTS AT THE OAKLAND ZOO DURING THE PERIOD JUNE 16, 1992 THROUGH APRIL 1, 1994

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WHEREAS, the City has retained the services of the East Bay Zoological Society, a California charitable non-profit organization, to administer and procure professional services providers and construction contractors to make various improvements at the Oakland Zoo; and

WHEREAS, the East Bay Zoological Society is qualified to perform said services and expects to have completed work on this project by April 1, 1994.

NOW, THEREFORE, in consideration of mutual promises, covenants, and agreements herein set forth, the parties do hereby agree as follows:

RESOLVED: That the Oakland City Council hereby authorizes an agreement between the City of Oakland and the East Bay Zoological Society, for the period June 16, 1992 through April 1, 1994, and appropriates to the East Bay Zoological Society, an amount not to exceed one million dollars (\$1,000,000) in Measure K Series 1991A bond monies for the completion of various improvements at the Oakland Zoo;

FURTHER RESOLVED: That the City Council hereby appoints the City Manager or his designee as agent of the City to conduct all negotiations, execute and submit all modifications, payment requests and related actions which may be necessary for the completion of the aforementioned agreement in accordance with their specified purposes; and be it

FURTHER RESOLVED: That the Office of the City Attorney has approved this resolution as to form and legality and a copy is on file at the Office of the City Clerk.

I certify that the foregoing is a full, true and correct copy of a Resolution passed by the City Council of the City of Oakland, California,

on _____

ARRECE JAMESON
City Clerk and Clerk of the Council

Per _____ Deputy