



## STAFF REPORT

**Date:** Tuesday, April 8, 2014  
**To:** Bryan H. Montgomery, City Manager  
**From:** Joshua McMurray, Senior Planner  
**Subject:** **Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Nickerson Signs to Fabricate and Install a Bench Style Monument Sign for the Oakley Plaza Main Street Frontage**

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

### Summary

In October the City Council gave direction regarding the size, architectural style, and placement of the two monument signs proposed for the Oakley Plaza. Since that time, Staff has contracted with Nickerson Signs to fabricate and install the first monument sign along the Vintage Parkway frontage. That sign is currently being installed and should be completed within the coming weeks. At that time, the cost of the first sign did not exceed the threshold requiring a purchase to be approved by the City Council. The total cost of that sign combined with the cost of this second sign will exceed the \$25,000 threshold, which requires the purchase to be approved by the City Council. Both signs are considered to be part of the same project, however the sign on the Vintage Parkway frontage was ready to be fabricated and installed first due to the timing the future Grocery Outlet project. Now that Grocery Outlet is close to submitting construction documents for their building, the timing is more appropriate for this second sign.

This particular sign is very artistic and "one of a kind" in nature and Nickerson Signs is the creator and fabricator of the sign. Staff has determined that it would not be feasible to look for another source for fabrication of the sign due to the specialized and custom nature of the sign; therefore Staff did not use the RFP process to select Nickerson Signs for this contract. The detail work that has gone into the many iterations of designs up to this point is evident in the final product and using another source would require starting the process over.

The total contract price does not include the permit/engineering costs related to the signs foundation as well as the potted plants that would be placed on each end of the sign. It is expected that the permit/engineering costs will be around \$400. Staff has found that the potted plants range in price depending on the size and material of the pots. With that said the goal is to find similar if not the exact same pots but in a smaller size to fit on the sign structure and to fit the scale of the sign. It is anticipated that the costs of the 2 pots with plants and irrigation could be up to \$2,000.

### Fiscal Impact

Approval of the resolution will authorize the City Manager to execute an agreement with Nickerson Signs for a cost not to exceed \$27,500.

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**Recommendation**

Staff recommends the Council adopt a resolution authorizing the City Manager to execute the agreement with Nickerson Signs for the fabrication and installation of a bench style monument sign for the Oakley Plaza Main Street Frontage.

**Attachments**

1. Agreement
2. Resolution

690-D Garcia Street  
Pittsburg, CA 94565

NICKERSON



Attachment 1

MFG. SIGNS

THIS AGREEMENT, made this . . . . . day of . . . . .

**NICKERSON SIGNS** Seller, and City of Oakley Purchaser,  
of 3231 Main Street, Oakley, Ca 94561 address.

WITNESSETH:

(a) SELLER agrees to sell and Purchaser agrees to purchase and pay for the electrical display hereinafter referred to as the "display" in accordance with the specifications and conditions hereinafter set forth.

(b) PRICE: The price of the display shall be \$ 2,487.98 payable as follows:

Selling Price . . . \$ 2,282.00 . . .  
Sales Tax . . . . . 205.98 . . .  
Permits Billed as necessary  
Total . . . . . \$ 2,487.98 . . .

(c) TERMS: \$ 1,243.49 with order; balance \$ 1,243.49 payable upon completion  
Potted Plants to be billed separately.

(d) NEGOTIABILITY: It is agreed that it is a material consideration to Purchaser in the execution of this agreement that it may be assigned, pledged, discounted or otherwise in any manner negotiated by the Seller for the purpose of financing.

(e) TITLE: Ownership of said display shall remain in the Seller until all of said payments are made, and all of the conditions herein contained are fully complied with. Should any loss, damage or injury result to said display, from any cause whatsoever, while in the possession of Purchaser or his Agents, said loss, damage or injury shall not relieve the Purchaser from the obligation to pay for said display according to the terms of this Agreement.

(f) PATENT PROTECTION: Seller agrees to defend and indemnify Purchaser against any and all claims for damages for violation of patents, groundless or otherwise arising from the use of the display.

(g) DEFAULT: These premises are upon the condition that in the event of a breach by the Purchaser of any of the covenants and agreements herein contained or if during the term of this agreement, or any extension thereof, bankruptcy or insolvency proceedings are commenced by or against the Purchaser, or if the Purchaser makes an assignment for the benefit of creditors, or if a Receiver is appointed to take possession of the business of Purchaser, or if action is taken to accomplish this end; or if the Purchaser, discontinues business in these premises, or sells or files, or there is filed on his behalf, intention to sell or mortgage under Section 3440 of the Civil Code of California, or transfer said business or a material part thereof, voluntarily or involuntarily, Seller at its option and without notice to Purchaser, may declare the entire unpaid balance of the purchase price hereunder immediately due and payable, or Seller may without notice to Purchaser declare off all Purchaser's rights under this agreement terminated, and without demand first made, and with or without legal process, immediately take possession of said display and hold same, together with title thereto. Should Seller take possession of said display, all the rights of Purchaser under this agreement shall immediately terminate and all payments theretofore made hereunder shall belong absolutely to the Seller as compensation for the depreciation in value and for the use of said display, and the Purchaser shall pay to the Seller all installments then delinquent, under this agreement; upon any such termination Seller may, but shall not be obligated to do so, sell said display at public or private sale, without demand for performance, with or without notice to Purchaser (if given, notice mailed to Purchaser's business address as given in this agreement being sufficient), with or without having said display at the place of sale, and upon the terms and in such manner as Seller may determine, and Seller may bid at any such sale. If the proceeds from said sale, added to the payments theretofore made by Purchaser hereunder, do not total the amount required to be paid by Purchaser hereunder, plus the cost of retaking and reselling said display, the Purchaser agrees to pay

to Seller, on demand, such deficiency. In case the Seller shall employ an attorney to recover the said display or collect any sum due under this agreement, the Purchaser agrees to pay a reasonable attorney's fee for plaintiff in such action. The Purchaser agrees that any action to recover any amount due under this contract may be brought in PITTSBURG, CALIFORNIA. Time is of the essence of this agreement in respect to payments thereunder, and the Waiver or indulgence of any default shall not operate as a waiver or any subsequent default. All overdue payments shall bear interest at the rate of 1 1/4% per month.

(h) REMOVAL OF DISPLAY: The display shall at all times be deemed personal property, and shall not by reason of attachment or connection to any realty, become or be deemed a fixture or appurtenance to such realty and shall at all times be severable therefrom, and shall be and remain at all times the property of Seller, free of any claim or right of Purchaser, except as set forth herein. Seller shall have the right to enter the premises to inspect, repair or remove said display.

Purchaser agrees to pay any and all County, State or Federal taxes imposed upon the sale of personal property in addition to the above mentioned price immediately upon the rendering of an invoice therefor.

(i) AUTHORITY OF AGENT: It is understood and agreed that this agreement contains the entire contract between the parties hereto, and it is understood that no representative of Seller has any power to change, modify or make any other terms or representations whatsoever than those herein stated, and that the representative is acting as special agent and all representations not herein set out are deemed waived.

(j) DELIVERY: The construction and installation of the display as set forth herein shall be subject to delay by strikes, fires, unforeseen commercial delays or Acts of God.

(k) PERMITS: Seller agrees to obtain municipal permits. Purchaser agrees to obtain all other permits required for the installation or maintenance of the display and to be responsible for such permission once obtained shall not be revoked.

(l) TRANSFER OF AGREEMENT: All of the terms and conditions hereof shall be binding upon the successors, assigns or legal representatives of the respective parties, but the interest of Purchaser shall be transferable only upon the written consent of Seller.

(m) SERVICE WIRING: COST OF ELECTRICITY: REINFORCEMENT OF BUILDING: Purchaser shall bring and connect feed wires of suitable capacity to the location of the display, shall pay for all electrical energy used by the display, and shall be responsible for the supply thereof. Unless specifically stated in writing to the contrary. Purchaser shall provide any necessary

(OVER)

reinforcements to the building on which the display is to be installed.

(n) ACCEPTANCE BY SELLER: Notwithstanding anything to the contrary, this agreement, although signed by a Sales Representative of Seller, shall not be binding upon Seller for any purpose until same is accepted and executed by an executive officer of Seller or by installation of the display.

(o) SPECIFICATIONS:

- 1. TYPE—(Vertical) (Horizontal) — (Single) (Double) Face — Background (Solid) (Open)
- 2. METAL—(Flat) (Galvanized) (Painted) (Porcelain Enamel) — Approx. Length . . . . . Approx. Width . . . . .
- 3. FINISH—Background Color . . . . . Border Color . . . . .
- 4. ACCESSORIES . . . . .
- 5. ADDRESS OF INSTALLATION . . . . .
- POSITION ON BUILDING . . . . .
- . . . . . TYPE STRUCTURE . . . . .
- 6. DISPOSAL OF OLD SIGN . . . . .

Manufacture and install "Bench" sign as  
 per approved renderings

7. DESIGN:

PURCHASER:

.....  
 (Individual) (Partnership) (Corporation)  
 BY .....

Title .....

SELLER:

BY .....

ACCEPTED 2/28/14 .....

(Salesman)  
 (Date)

BY Del. Nickerson .....

(Executive Officer)

Title .....

**RESOLUTION NO. XX-14**

**A RESOLUTION OF THE CITY OF OAKLEY APPROVING AN AGREEMENT WITH NICKERSON SIGNS TO FABRICATE AND INSTALL A BENCH STYLE MONUMENT SIGN FOR THE OAKLEY PLAZA MAIN STREET FRONTAGE**

**WHEREAS**, the City Council recently approved a conceptual design for a bench style monument sign along the Oakley Plaza Main Street frontage; and

**WHEREAS**, Nickerson Signs is currently fabricating and installing the first monument sign along the Oakley Plaza Vintage Parkway frontage; and

**WHEREAS**, Nickerson Signs has created a unique, one of a kind bench style monument sign under the direction of the City of Oakley; and

**WHEREAS**, Nickerson Signs has submitted a proposal to fabricate and install the bench style monument sign for an amount not to exceed \$24,876 plus permit/engineering fees and the potted plants.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the City Council of the City of Oakley that the agreement with Nickerson Signs for the fabrication and installation of bench style monument sign at the Oakley Plaza Main Street frontage not to exceed \$27,500 is hereby approved in the form attached hereto as Exhibit A and the City Manager is authorized to execute said agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 8<sup>th</sup> of April, 2014 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Randy Pope, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date