



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 82880 C.M.S.

RESOLUTION WAIVING THE ADVERTISEMENT AND REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND AWARD A THREE YEAR TERM AGREEMENT TO FIRE RECOVERY, USA TO PROVIDE BILLING AND COLLECTION SERVICES IN CONNECTION WITH THE CITY'S EMERGENCY RESPONSE USER FEE PROGRAM IN EXCHANGE FOR RETENTION OF A PERCENTAGE OF REVENUE COLLECTED TO BE DETERMINED BY THE CITY ADMINISTRATOR

WHEREAS, the City of Oakland Fire Department provides emergency response, medical and fire investigation services in response to motor vehicle accidents and vehicle fire in the Oakland community; and

WHEREAS, the costs associated with providing emergency response, medical and fire investigation services including personnel, equipment and training is paid by City of Oakland taxpayers; and

WHEREAS, a significant amount of the motor vehicle accidents in Oakland involve at fault non-Oakland residents who receive the high quality and costly emergency response, medical and fire investigation services and don't pay taxes in Oakland; and

WHEREAS, staff has prepared an ordinance to establish and implement a program to charge and collect emergency response user fees for the public safety emergency response services rendered at the scene of motor vehicle accidents from non-resident drivers responsible for the accidents and from criminally negligent drivers, regardless of residence; and

WHEREAS, state law prohibits insurance carriers from paying public entity emergency response claims for certain criminally negligent drivers (under the influence of alcohol and/or drugs, or who engage in intentionally negligent driving), but allows insurers to pay claims for emergency response costs in other circumstances, therefore, the proposed ordinance would authorize staff to institute claims and collection proceedings against drivers' insurance carriers when permitted, and against individual drivers in circumstances where insurance carriers are prohibited by law from paying such claims; and

WHEREAS, based on accident data from 2009, it is estimated that collections from insurance carriers of non-resident, non-criminally negligent drivers responsible for motor vehicle accidents would generate up to \$400,000 per year or \$33,333 per month once the system is fully implemented; and

WHEREAS, all amounts collected shall be deposited to the General Fund (Fund 1010), Org(20611), insurance claims/settlement (48411), Fire Suppression(PS17), to be used exclusively for personnel, supplies, and equipment of Fire Services; and

WHEREAS, given the City's current staff level, start-up investment costs that would be required to implement the emergency response fee program and need for certain software expertise, it is staff's recommendation that billing and collection work needed to collect emergency response fees under the proposed ordinance be outsourced; and

WHEREAS, Fire Department staff has researched the market and has determined that there is only one firm in California, Fire Recovery, USA, currently handling collections of this type in connection with similar ordinances in the state of California and that has substantial knowledge of California law; and

WHEREAS, Fire Recovery USA provides the same or similar services to the City of Roseville resulting from a request for proposal process Roseville conducted in March 2009, and the City proposes to essentially piggy-back off of the terms and conditions of the Roseville contract to the extent the such terms and conditions are beneficial for the City, but shall also negotiate terms specific to Oakland's needs; and

WHEREAS, Fire Recovery, USA possesses the expertise and software capacity for the FireRMS system that the Oakland Fire Department currently uses for its RecoveryHub system, and reference checks of other local jurisdictions using Fire Recovery, USA services show that collection activities were up and running within 60 days of the contract with Fire Recovery, USA; and

WHEREAS, Fire Recovery, USA will retain a negotiated percentage of the fee collected as their compensation for services provided under the agreement, therefore, City would not be obligated to pay contractor from any other revenue source; and

WHEREAS, Oakland Municipal Code Section 2.04.051.B authorizes the City Council to waive advertising and the request for proposal/qualifications process upon a finding by the City Council that it is in the best interests of the City to do so; and

WHEREAS, it is in the best interests of the City of Oakland for the Council to waive advertising and the request for proposal/qualifications process because Fire Recovery, USA is providing the same or similar services to other jurisdictions in California, they possess the software and expertise to handle computerized accident data produced by the City's systems and the request for proposals that Roseville conducted in 2009 indicates that the conduct of a request for proposal process would not likely produce a different result and would delay timely implementation of a revenue generating program; and

WHEREAS, a three year agreement is proposed because it allows time for software set up, program implementation and staff to analyze and evaluate the service and revise as necessary to maximize revenue; and

WHEREAS, the City Administrator has determined that the services to be provided under the contract(s) approved hereunder are of a professional, technical and temporary nature and 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 the City Council finds and determines pursuant to the Oakland Municipal Code, Title 2, Chapter 2.04, Sections 2.04.050.I.(5), for the reasons stated in the report accompanying this Resolution and above, that it is in the best interests of the City to waive advertising and the request for proposal/qualifications process and the requirements are so waived; and be it

FURTHER RESOLVED: The City Administrator is authorized to negotiate and award a three-year term agreement to Fire Recovery, USA for the billing and collection of emergency services response user fees in connection with the Emergency Response User Fee Program; and be it

FURTHER RESOLVED: The City Administrator will negotiate retention of a percentage of the revenue collected as the sole basis for compensation for the work so that in no event shall the City be responsible for issuing payments to the contractor from any other revenue source; and be it

FURTHER RESOLVED: That all contracts shall be approved for form and legality by the City Attorney's office and placed on file in the Office of the City Clerk

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 6 2010, 20

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, ~~DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 7

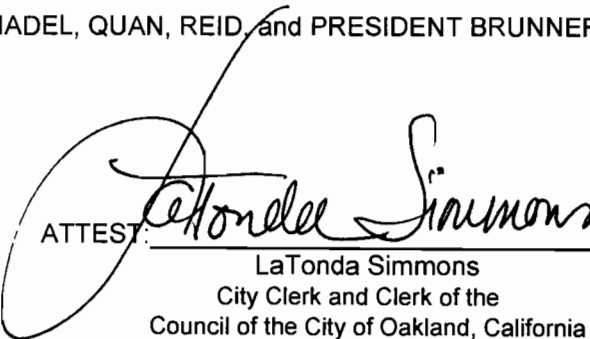
NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused- De La Fuente- 1

ATTEST:


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