

APPROVED AS TO FORM AND LEGALITY

2022 SEP 33 PM 4: 07

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

  
Celso Ortiz (Sep 11, 2022, 2:32 PDT)  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. 89431 C.M.S.

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**RESOLUTION: (1) WAIVING FURTHER ADVERTISING AND COMPETITIVE BIDDING; (2) AUTHORIZING THE CITY ADMINISTRATOR TO AWARD A TWO-YEAR LANDSCAPE MAINTENANCE CONSTRUCTION CONTRACT IN AN AMOUNT NOT TO EXCEED THREE HUNDRED FIFTEEN THOUSAND DOLLARS (\$315,000.00) IN THE OPEN MARKET FOR THE GATEWAY INDUSTRIAL LANDSCAPE MAINTENANCE CONTRACT 2022 (PROJECT NO. 1004284) IN ACCORD WITH ALL OF THE CITY'S CONTRACTING PROGRAMS INCLUDING THE LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE REQUIREMENTS; AND (3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, in 2015, Community Facilities District (CFD) 2015-1 (Gateway Industrial District) at the former Oakland Army Base was established by way of Ordinance No. 13324 C.M.S., and Resolution No. 85724 C.M.S., pursuant to the Mello-Roos Community Facilities Act of 1982; and

**WHEREAS**, the CFD has provided the City with an additional permanent funding mechanism to maintain the infrastructure and improvements at the Gateway Industrial District by way of property tax revenues paid by the tenants of the CFD 2015-1 boundary area; and

**WHEREAS**, the proposed landscape maintenance construction contract will provide maintenance and trash pick-up of the landscaped/bio-retention areas and bike paths along Maritime Street, Burma Road, Wake Avenue and Admiral Toney Way within the CFD 2015-1 boundary area for a two-year term; and

**WHEREAS**, Oakland Public Works (OPW) Capital Contracts Division in accordance with OMC 2.04.50 issued a Notice of Inviting Bids for the Gateway Industrial Landscape Maintenance Contract 2022 (Project No. 1004284) on February 25, 2022; and

**WHEREAS**, bids were received on March 31, 2022, by the City Clerk for this project from three (3) vendors; \$314,000.00 from Bay Construction, \$297,000.00 from Forester & Kroeger, and \$475,904 from New Image Landscape; and

**WHEREAS**, all bid proposals were evaluated by the Department of Workforce and Employment Standards (DWES) as shown in the Compliance Analysis on April 20, 2022, for compliance with the City's requirements of Local and Small Local Business Enterprise (L/SLBE) and Equal Benefits Ordinance (EBO); and

**WHEREAS**, the Compliance Analysis determined that Bay Construction exceeded the minimum 50% L/SLBE and EBO participation requirements but was deemed non-responsive due to the exclusion of Schedule I – Sanctuary City in the bid package; and

**WHEREAS**, the Compliance Analysis determined that both Forester & Kroeger and New Image Landscape included all mandatory bid items but did not meet either of the L/SLBE and EBO requirements and both were deemed non-responsive; and

**WHEREAS**, section 2.04.050 of the Oakland Municipal Code (OMC) requires advertising and competitive bidding where the cost of services, supplies or combination required by the City exceeds \$50,000.00; and

**WHEREAS**, OMC section 2.04.050 I.5 permits the waiver of advertising and competitive bidding after a finding and determination by the City Council that it is in the best interests of the city to do so; and

**WHEREAS**, staff recommends that the Council find and determine that it is in the best interests of the City to waive advertising and bidding requirements for this contract because of the reasons and circumstances set forth in this resolution and in the agenda report that accompanies it; and

**WHEREAS**, this contract and project are exempt from the California Environmental Quality Act (CEQA) under sections 16061(b)(3) and 15301(h) because there are no significant effects on the environment from these actions and is the maintenance of existing landscaping; now, therefore be it

**RESOLVED:** That all bids received were deemed non-responsive and are rejected; and be it

**FURTHER RESOLVED:** That the City Council finds and determines pursuant to OMC 2.04.505.I.5, that it is in the best interest of the City to waive further advertising and competitive bidding to avoid any significant lapse in services at Gateway Industrial within the CFD 2015-1 boundary area and thus so waives these requirements; and be it

**FURTHER RESOLVED:** That the Council hereby authorizes the City Administrator to negotiate, award and execute a landscape maintenance construction contract in the open market that meets all of the City's contracting requirements including L/SLBE and EBO not to exceed \$315,000.00; and be it

**FURTHER RESOLVED:** That the Council finds and determines that this contract is exempt from the California Environmental Quality Act under sections 15061(b)(3) and 15301(h) because there are no significant effects on the environment from these actions and is the maintenance of existing landscaping; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to file a Notice of Exemption with the Alameda County Clerk's Office and appropriate agencies; and be it

**FURTHER RESOLVED:** That funding for this contract is available from annual appropriations in Fund 2332 (Gateway Industrial Park), Org 30652 (Landscape Maintenance), Project 1004284 (OAB CFD No. 2015-1 Gateway). Project 1004284 receives annual property tax revenue from CFD 2015-1 tenants; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to execute any amendments or modifications of the contract within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney for form legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

OCT, 4 2022

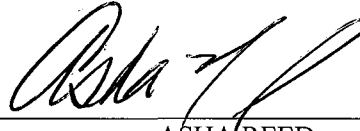
PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, ~~WAMM~~ KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS - 7

NOES - 0  
ABSENT - 0  
ABSTENTION - 0

Excused - 1 Galls

ATTEST:



ASHA REED

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