

## OAKLAND CITY COUNCIL

RESOLUTION NO. 88374 C.M.S.

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**RESOLUTION WAIVING ADVERTISING, COMPETITIVE BIDDING, AND CITY CONTRACTING PROGRAM REQUIREMENTS AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND AWARD CONSTRUCTION CONTRACTS TO EAST BAY MUNICIPAL UTILITY DISTRICT CONTRACTORS FOR ALL CURRENT AND FUTURE UTILITY COST-SHARE PAVING WITHOUT RETURN TO COUNCIL.**

**WHEREAS**, East Bay Municipal Utility District (EBMUD) provides water services to properties within the City of Oakland; and

**WHEREAS**, due to aging pipeline infrastructure, EBMUD implements major capital improvement projects to upgrade water lines, replacing thousands of feet of pipeline across Oakland every year; and

**WHEREAS**, EBMUD is required to provide pavement restoration according to the Oakland Municipal Code (OMC) Excavation Requirements Section 12.12.112; and

**WHEREAS**, this surface pavement restoration is part of utility trench restoration but it does not address the entire roadway area; and

**WHEREAS**, as part of the City's paving program and EBMUD's pipeline improvement projects, there are opportunities for the City and EBMUD to collaborate on comprehensive paving of roadways in Oakland; and

**WHEREAS**, this resolution builds upon Resolution No. 86602 C.M.S. which authorized the City Administrator or designee to negotiate cost-sharing agreements with EBMUD for full-width paving of roadways; and

**WHEREAS**, this resolution authorizes the City Administrator to negotiate with contractors awarded work by EBMUD through advertised and competitive bidding processes in order to augment the contract scope to include additional paving at the City's direction; and

**WHEREAS**, funds for the City's portion of pavement restoration work is currently budgeted in the following project account: in Fund 5332 Measure KK, Organization

92246 Engineering Design Streets and Structures, Account 57411 Street Construction, Project No. 1005420, and as part of the anticipated FY 2020-22 CIP Budget; and

**WHEREAS**, the locations prioritized for utility cost-sharing opportunities will follow the City's 3-Year Paving Plan (Resolution No. 87673 C.M.S.) or paving policies adopted by City Council in the future; and

**WHEREAS**, Oakland Municipal Code ("OMC") section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsible, responsive bidder if award is made; and

**WHEREAS**, OMC Section 2.04.050.1.5 provides an exception to the advertising and competitive bidding requirements of the OMC upon a finding and determination by the City Council that it is in the best interest of the City to do so; and

**WHEREAS**, OMC Section 02.04.020 identifies multiple local contracting programs required of City contractors that may not be achievable given the City does not have control over EBMUD's bidding processes; and

**WHEREAS**, as a public agency subject to the California Public Contracts Code, EBMUD advertises and competitively bids its contracts and awards to the lowest responsible, responsive bidder; and

**WHEREAS**, EBMUD maintains its own contracting program requirements which include requiring small/local business enterprise participation, apprenticeship, prevailing wage, and encouraging local hire; and

**WHEREAS**, completing site restoration work with one contractor reduces construction impacts and is in the best interest of Oakland residents and businesses; and

**WHEREAS**, one contractor per location ensures better site control, eliminates inefficiency due to the need to "work around" multiple contractors at one site, and reduces confusion from the public regarding who is responsible for the effort; and

**WHEREAS**, completing full-width paving in one mobilization with one contractor is a cost-effective and efficient use of public dollars and is in the best interest of Oakland tax-payers who are also EBMUD rate-payers; and

**WHEREAS**, the City Council finds and determines that the performance of this contract is in the public interest because of economy or better performance; and

**WHEREAS**, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the construction contracts approved hereunder are temporary in nature; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, and that the services are of a professional, scientific or technical nature; and

**WHEREAS**, the City Council finds and determines that the performance of these contracts 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 Oakland Municipal Code section 2.04.020, the City Administrator is directed to negotiate with EBMUD contractors to maximize compliance with City Equity contracting program requirements; and be it

**RESOLVED**: That, pursuant to Oakland Municipal Code section 2.04.020, the City Administrator is authorized to waive the Local and Small Local Business Program, City Prevailing Wage, Local Hire, Apprenticeship, and other City Equity contracting program requirements if compliance with such programs is not achievable; and be it

**RESOLVED**: That, pursuant to Oakland Municipal Code section 2.04.050.1.5, the Council hereby approves the award of supplemental construction contracts to firms on contract by EBMUD to perform pipeline restoration construction for the purpose of completing all current and future utility-cost share joint-benefit paving, without return to Council; and be it

**FURTHER RESOLVED**: That the City Administrator, or designee, is hereby authorized to execute any amendments or modification of the contracts within the limitation of the project specification; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, November 10, 2020

PASSED BY THE FOLLOWING VOTE:

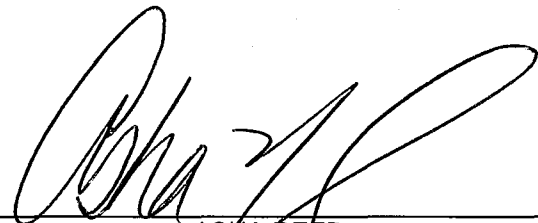
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN -8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

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