

2025 SEP 24 11:19:29


Farrah Hussein (Aug 29, 2025 16:23:12 PDT)

CITY ATTORNEY'S OFFICE

FILED
CITY CLERK

OAKLAND CITY COUNCIL

RESOLUTION NO. 90887 C.M.S.

RESOLUTION:

- (1) **WAIVING THE FORMAL ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS OF OMC § 2.04.050(I) AND THE RFP/RFQ REQUIREMENTS OF OMC § 2.04.051(B),**
- (2) **APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO AWARD AND EXECUTE A THREE YEAR AGREEMENT WITH YES CONSTRUCTION GROUP, INC. FOR BACKFLOW PREVENTION DEVICE TESTING, CERTIFICATION, AND MINOR INCIDENTAL REPAIRS AT CITY FACILITIES IN AN AMOUNT NOT TO EXCEED \$270,000 FOR THE PERIOD NOVEMBER 1, 2025 THROUGH OCTOBER 30, 2028, WITH TWO (2) ONE YEAR OPTIONS TO EXTEND IN AN AMOUNT NOT TO EXCEED \$90,000 PER YEAR, FOR A TOTAL NOT TO EXCEED \$450,000, SUBJECT TO THE AVAILABILITY OF FUNDS; AND**
- (3) **ADOPTING APPROPRIATE CEQA FINDINGS**

WHEREAS, The Oakland Public Works Department Facilities Services Division (FSD) is responsible for the construction, maintenance, upgrades, emergency repairs, and health/safety compliance for all City facilities and to support these operations, the division must procure commodities and services from various vendors. To ensure essential services are not interrupted and City facilities remain safe and functional for City staff and clientele, it is essential that the City maintain valid support contracts with sufficient capacity for use at any time. This resolution would award a contract for potable water supply Backflow Valve testing and certification services.; and

WHEREAS, Backflow Valve verification and certification is a mandated annual function without which EBMUD will discontinue potable water service. Without freshwater service, a facility is rendered uninhabitable and must be vacated until the Backflow Valve testing is performed and the water service may be restored by EBMUD. To prevent any such water shutoff scenarios from occurring at City facilities, Public Works staff recommends that the City Council adopt a resolution to enter into a multiyear agreement with YES Construction Group, Inc. a City of Oakland Local Business and Certified Backflow Testers, to provide mandated East Bay Municipal Utility District (EBMUD) water Backflow Valve inspections and certifications at City facilities; and

WHEREAS, Oakland Municipal Code (OMC) 2.04.050 requires formal advertising and competitive bidding for purchases of supplies and services over \$50,000 unless an exception applies, and OMC § 2.04.051 requires a formal RFP/RFQ for professional services over \$50,000 unless waived; and

WHEREAS, Oakland Municipal Code (OMC) 2.04.050(I)(2), exceptions to Competitive Bidding, upon a finding in each instance and when calling for bids on a competitive basis is impracticable, City Council may waive the competitive bidding requirement; and

WHEREAS, Oakland Municipal Code (OMC) 2.04.051 (B) upon a finding by the City Council or its designee that it is in the best interests of the City, the City Council may waive said RFP/Q requirements for professional services contracts in any amount; and

WHEREAS, on October 20, 2020, City Council adopted Resolution No. 88317 C.M.S. awarding Daupler, Inc. a three years contract with two years option to renew while waiving the City's Request For Proposal Requirements Under Oakland Municipal Code (OMC) Section 2.04.051.B; and

WHEREAS, on March 19, 2024, On June 6, 2024, City Council adopted Resolution No. 90162 C.M.S. waiving the competitive request for proposal requirements process for PFM Financial Advisors pursuant to Oakland Municipal Code (OMC) Section 2.04.051.B; and

WHEREAS, on June 6, 2024, City Council adopted Resolution No. 90273 C.M.S. awarding Interwest Consulting Group a three-year contract with two years option to renew while waiving the City's Request For Proposal Requirements Under Oakland Municipal Code (OMC) Section 2.04.051.B; and

WHEREAS, The California Code of Regulations, Title 17 mandates that potable water purveyors such as EBMUD administer a cross-connection control and backflow prevention program, which helps to prevent contamination of potable water from contaminants and exposure to pollution. To comply with this code, the City must hire a contractor certified by EBMUD as an Approved Backflow Valve Verifier to test and certify Backflow Valves at all City facilities with a potable water supply. If these mandated annual certifications are not performed, EBMUD is required to discontinue water service to non-compliant facilities; and

WHEREAS, YES Construction Group, Inc. has provided services to the City since 2014 and has proven capable and reliable in administering a cross-connection control and backflow prevention inspection, identifying repair, re-test and produce the EBMUD mandated certificate; and

WHEREAS, the City competitively solicited these services in 2019 and 2023 and in each case received one responsive proposal (from YES Construction Group, Inc.) despite broad outreach, so repeating a solicitation would be impracticable or unavailing within the meaning of OMC § 2.04.050(I)(2); and

WHEREAS, the City had previously conducted two Requests for Proposal (RFP) for Backflow Valve testing and certification in 2019 and 2023. For both of these previous RFP's YES Construction Group, Inc. (an EBMUD certified Backflow Valve Verifier and 100% local

City of Oakland business) was the sole bidder and consecutively was awarded two contracts of \$249,000 (2019) and \$250,000 (2023) justifying the waiver of competitive bidding under OMC (OMC) 2.04.050(I)(2); and

WHEREAS, conducting another request for proposal ("RFP") or request for qualifications ("RFQ") will require a significant amount of City's staff time and advertising costs. To avoid unnecessary these expenses, based upon the results of the previous two RFP attempts and in the best interest of the City to waive the RFP requirement, this is justifying the waiver of RFP/Q requirements for professional services contracts under (OMC) 2.04.051 (B); and

WHEREAS, the work of backflow prevention device testing and certification requires EBMUD-approved testers and specialized technical qualifications and is therefore professional/technical in nature under OMC § 2.04.051; and

WHEREAS, due to critical services needed by the City and time and cost savings City will benefit from adopting this resolution, in accordance with OMC Section 2.04.050 (I) (2), and 2.04.051 (B), staff recommends waiving the RFP advertisement and competitive bidding requirement and awarding YES Construction Group, Inc. a three-year maintenance services contract with an option to renew for two additional years without returning to Council; and

WHEREAS, annual backflow testing/certification is a previously-existing City facility compliance function necessary to maintain uninterrupted potable water service from EBMUD;

WHEREAS, the total five years contract in the amount of \$450,000 (\$90,000 annually) is available in Fund 4400 - Facilities Service Fund, ORG 30556 – Facilities Maintenance, Contract Services Accounts 54612, Project 1000010; and

WHEREAS, approval of this resolution does not impact the General-Purpose Fund (1010) and will not result in the additional appropriation of funds now, therefore, be it;

RESOLVED: that the Council waives the formal advertising and competitive bidding requirements of OMC § 2.04.050(I), based on the City's 2019 and 2023 RFPs that yielded a single responsive proposer despite broad outreach, and waives the RFP/RFQ requirements of OMC § 2.04.051(B) as in the best interests of the City; and be it

FURTHER RESOLVED: that pursuant to Charter § 902(e), the Council finds (i) the services are professional, scientific or technical and temporary; (ii) alternatively, to the extent any portion is deemed nonprofessional services, contracting is in the public interest due to economy or better performance, and the contract will not result in the loss of employment or salary of any person with permanent civil service status; and be it

FURTHER RESOLVED: that the Council awards and authorizes the City Administrator to negotiate and execute a three-year agreement with YES Construction Group, Inc. for backflow prevention device testing, certification, and minor incidental repairs at City facilities in an amount not to exceed \$270,000 for the period November 1, 2025, through October 30, 2028; and be it

FURTHER RESOLVED: that the City Administrator is authorized to exercise two (2) one-year options in an amount not to exceed \$90,000 per year, without returning to Council, provided the aggregate compensation does not exceed \$450,000, and subject to satisfactory performance, contractor compliance, and the availability of funds; and be it

FURTHER RESOLVED: that the contractor shall comply with the City's L/SLBE requirements; and be it

FURTHER RESOLVED: that funding is available in Fund 4400–Facilities Service Fund; Org 30556–Facilities Maintenance; Project 1000010; Object 54600, that there is no impact to the General Purpose Fund, and that expenditures in out years are subject to annual appropriation; and be it

FURTHER RESOLVED: that this action is categorically exempt from CEQA pursuant to Guidelines §§ 15301 (existing facilities), 15302 (replacement in kind, where applicable), and 15309 (inspections), and staff is directed to file a Notice of Exemption with the Alameda County Clerk; and be it

FURTHER RESOLVED: That City Administrator must report back to Council on any contract adjustments and any further increases beyond this amount require additional Council's approval; and be it

FURTHER RESOLVED: That the City Administrator or their designee is authorized to complete all required negotiations, execute the agreements, and take any other action consistent with this Resolution and its basic purpose except with respect to any increase in compensation or contract amount; and be it

FURTHER RESOLVED: That the Agreement will be reviewed for form and legality by the City Attorney and a copy filed with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 7 2025

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS -7

NOES - 0

ABSENT - 0

ABSTENTION - 0

1 Excused - Houston

ATTEST:


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