



Celso Ortiz (May 26, 2022 14:48 PDT)

City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION:**

**(1) AMENDING AND INCREASING THE EXISTING CONTRACT WITH RIGHT AWAY REDY MIX IN AN AMOUNT NOT TO EXCEED ONE MILLION DOLLARS (\$1,000,000) AND EXTENDING THE TERM BY ONE ADDITIONAL YEAR TO MARCH 31, 2024; AND**

**(2) WAIVING ADVERTISING, BIDDING AND THE LOCAL AND SMALL LOCAL BUSINESS PARTICIPATION REQUIREMENTS; AND**

**(3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the Oakland Department of Transportation performs pavement and sidewalk construction on City streets, requiring access to materials such as ready-mixed concrete; and

**WHEREAS**, procuring construction materials for in-house delivered projects is an essential element of the 5-Year Paving Plan (Resolution No. 88975 C.M.S.); and

**WHEREAS**, in March 2020, the City conducted a Request for Qualifications (RFQ) No. 185504-2 to eleven (11) identified firms to provide concrete; and

**WHEREAS**, the City received one proposal from Right Away Redy Mix; and

**WHEREAS**, following an evaluation of qualifications, Right Away Redy Mix was determined to be qualified to provide concrete materials in accord with RFQ 185504-2; and

**WHEREAS** Right Away Redy Mix was awarded a contract in the amount of \$250,000 which is within the authority of the City Administrator, in March 2020, expiring March 31, 2023; and

**WHEREAS** a multi-year purchasing contract streamlines the procurement of essential materials for paving; and

**WHEREAS** funds for the purchase of paving materials are available in the FY 2021-23 Budget in Fund 5332 Measure KK, Organization 92246 Engineer Design Streets and Structures, Account 57411 Street Construction, and Project No. 1005420; 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**, Ordinance number 13101 O.M.S., number 13640 C.M.S. and number 13647 C.M.S. requires a minimum 50-percent (50%) Local Business Enterprise/Small Local Business Enterprise participation for all purchase of commodities, goods and associated services for contracts valued at or over fifty thousand dollars (\$50,000) when there are at least three certified business listed in the industry, trade, or profession that constitutes a major category of work; and,

**WHEREAS**, the Council may waive the City's LBE/SLBE requirements for the purchase of commodities, goods, services, supplies or combination thereof due to a lack or limited availability of SLBEs or LBEs pursuant to Part I of Oakland's Local and Small Local Business Enterprise Program guidelines adopted by Ordinance No. 13647 C.M.S.; and

**WHEREAS**, neither the proposed contractor or staff have been able to identify any or a limited availability of LBE/SLBEs that can provide the products or perform the materials and services that are required under this contract; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is 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; and

**WHEREAS**, staff recommends that it is in the best interests of the city to waive further advertising and bidding processes, and the 50% Local and Small Local Enterprise Program minimum participation requirements, because the staff time and costs to readvertise are substantial, and will cause delays to ongoing concrete construction work, and ultimately may not result in a more favorable contract price; and

**WHEREAS**, a purchase contract is not considered a project under the California Environmental Quality Act (CEQA), and therefore is not subject to CEQA review; now, therefore, be it

**RESOLVED:** That the Council finds that pursuant to Oakland Municipal Code Section 2.04.050.I.5, for the reasons stated above and in the City Administrator's report accompanying this resolution, that it is in the best interests of the city to waive further advertising and bidding and the Local and Small Local Enterprise participation requirements for the goods and services to be purchased under the proposed contract and so waives these requirements; and be it

**FURTHER RESOLVED:** That the Council hereby authorizes the City Administrator to amend the existing contract with Right Away Redy Mix to increase the contract in an amount not-to-exceed \$1,000,000 and extending the term an additional year to March 31, 2024 for a total four-year term; and be it

**FURTHER RESOLVED:** That the Council hereby finds and determines that this Right Away Redy Mix purchase contract is not considered a project under the California Environmental Quality Act (CEQA), and therefore is not subject to CEQA review; and be it

**FURTHER RESOLVED:** That the City Council directs the City's Environmental Review Officer to file a Notice of Exemption with the Clerk of the County of Alameda; and be it

**FURTHER RESOLVED:** That the contract and amendments authorized hereunder shall be reviewed and approved by the City Attorney for form and legality and shall be placed on file in the office of the City Clerk.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of