



FILED
OFFICE OF THE CITY CLERK
OAKLAND
2020 JAN -2 AM 10:53

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jason Mitchell
Director, Public Works

SUBJECT: Waive Advertising and Competitive
Bid Requirements For On-Bill
Financing Agreements

DATE: December 16, 2019

City Administrator Approval

Date:

12/30/19

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Waiving The City's Advertising And Competitive Bid Requirements When Entering Pacific Gas & Electric Company On-Bill Financing Agreements.

EXECUTIVE SUMMARY

The purpose of this resolution is to request City Council waiver of two administrative requirements that will allow staff to complete contracts for energy efficiency and electrification projects for municipal buildings using Pacific Gas & Electric Company's (PG&E's) On-Bill Financing (OBF) program, consistent with Council direction from Resolution No. 87184 C.M.S.

During Council's initial consideration of this program, staff failed to include a request to waive the City's advertising and competitive bid process requirements. These waivers are necessary and appropriate, as the program contractors are vetted by outside organizations, specifically PG&E and/or the East Bay Energy Watch (EBEW), and participation involves no City funding, which eliminates the cost basis for competitive bidding by companies.

BACKGROUND / LEGISLATIVE HISTORY

On May 15, 2018, City Council approved Resolution No. 87184 C.M.S., authorizing the City to participate in PG&E's OBF program and the City Administrator or her designee to enter multiple PG&E OBF agreements. The same resolution also allows OBF contractors to accept energy rebates. Staff conducted an informal Request for Qualifications (RFQ) to select contractors to procure and install City-approved energy measures that meet PG&E's OBF loan requirements. OBF contractors receive payment for work directly from PG&E; the City does not provide any payment to the contractors for the work.

Item: _____
Public Works Committee
January 14, 2020

ANALYSIS AND POLICY ALTERNATIVES

Section 2.04.040.B.2 of the Oakland Municipal Code (OMC) requires formal advertising and bidding for purchase orders or contracts for supplies, construction services or a combination thereof involving expenditures in excess of fifty thousand dollars (\$50,000.00) in any one transaction or term agreement. The OBF agreements in question would provide construction services and likely exceed \$50,000 in valuation. OMC Section 2.04.050.I, however, permits the City Council to waive the competitive bid selection requirement upon a finding and determination that it is in the best interests of the City to do so.

Staff requests that Council waive the formal advertising and bidding requirements because no direct City funding is involved, eliminating the cost basis for competitive bidding. All improvements will be paid for with energy savings achieved on the City's utility bills, through payment from PG&E directly to contractors. In addition, OBF contractors, depending on their role, have all been prequalified by PG&E and/or EBEW, a public goods-funded partnership between PG&E and Alameda and Contra Costa County local governments. The contractors are well versed in the OBF requirements and processes including eligible energy efficiency measures, rebates available, energy savings calculations, and the operational performance verification requirements. Lastly, the informal Request for Qualification (RFQ) process that staff conducted in 2018 to select the contractors considered, among other things, costs and whether a firm was Oakland-based or a certified Local Business Enterprise, Small Local Business Enterprise, or Very Small Local Business Enterprise.

Therefore, staff recommends City Council adopt a resolution that finds and determines it is in the best interests of the City to waive the formal advertising and bidding requirements for the City's participation in PG&E's OBF program.

FISCAL IMPACT

This item corrects a procedural oversight and does not have a direct fiscal impact or cost. Fiscal impacts associated with the City's participation in PG&E's OBF program were already considered during Council's 2018 adoption of Resolution 87184 C.M.S.

PUBLIC OUTREACH / INTEREST

This item is administrative in nature, and does not include substantive information for the public's review. Council's earlier consideration of this item in 2018 included appropriate review for the program this decision would support. No additional outreach is deemed necessary.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: This item is administrative in nature. OBF-related economic opportunities were already considered during Council's 2018 adoption of Resolution 87184 C.M.S. In addition, staff's 2018 RFQ selection process included preferential considerations for Oakland-based businesses, and for those certified as a Local Business Enterprise, Small Local Business Enterprise, or Very Small Local Business Enterprise.

Environmental: This item is administrative in nature. OBF-related environmental opportunities were already considered during Council's 2018 adoption of Resolution 87184 C.M.S.

Race and Equity: This item is administrative in nature. OBF-related social equity opportunities were already considered during Council's 2018 adoption of Resolution 87184 C.M.S.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council adopt a resolution to waive the City's advertising and competitive bid requirements when entering PG&E On-Bill Financing agreements.

For questions regarding this report, please contact PETE FONG, ELECTRICAL ENGINEER II, at (510) 238-7074.

Respectfully submitted,



JASON MITCHELL
Director, Oakland Public Works

Reviewed by:
David Ferguson, Assistant Director

Reviewed by:
Derek Lee, Environmental Services Manager

Prepared by:
Daniel Hamilton, Sustainability Program
Manager

OAKLAND CITY COUNCIL

2020 JAN -2 AM 10: 53

RESOLUTION No. _____ C.M.S.

RESOLUTION TO WAIVE THE CITY'S ADVERTISING AND COMPETITIVE BID REQUIREMENTS WHEN ENTERING PACIFIC GAS & ELECTRIC (PG&E) COMPANY ON-BILL FINANCING (OBF) AGREEMENTS.

WHEREAS, in 2018, the City Council approved Resolution No. 87184 C.M.S., authorizing the City Administrator to participate in Pacific Gas & Electric's (PG&E's) On-Bill Financing (OBF) program, enter multiple OBF agreements with OBF contractors to procure and install City-approved energy measures, and allow OBF contractors to accept energy rebates; and

WHEREAS, only PG&E-vetted contractors may participate in PG&E's OBF program; and

WHEREAS, energy measures installed through OBF agreements are paid for with energy savings achieved on the City's utility bills, through payment from PG&E directly to contractors; and

WHEREAS, Section 2.04.040.B.2 of the Oakland Municipal Code (OMC) requires formal advertising and bidding for purchase orders or contracts for supplies, construction services or a combination thereof involving expenditures in excess of fifty thousand dollars (\$50,000.00) in any one transaction or term agreement; and

WHEREAS, Section 2.04.050.I of the OMC allows for exceptions to the competitive bidding process, including a finding and determination by the City Council that it is in the best interests of the City to do so; and

WHEREAS, the City wishes to execute PG&E OBF agreements to provide construction services that may exceed fifty thousand dollars (\$50,000.00) in valuation in any one term agreement; and

WHEREAS, in 2018, staff engaged PG&E OBF-vetted contractors in an informal bidding process that considered costs and provided preferential considerations for Oakland-based businesses, and for those certified as a Local Business Enterprise, Small Local Business Enterprise, or Very Small Local Business Enterprise; and

WHEREAS, City staff recommends waiving the formal advertising and bidding requirements for OBF agreements because it is in the best interests of the City to do so since (1) no direct City funding is involved, eliminating the cost basis for competitive bidding; (2) all contractors have been prequalified by PG&E; and (3) the contractors with whom the City will enter OBF agreements have been further evaluated through staff's informal Request for Qualifications process; now, therefore, be it

RESOLVED: That pursuant to OMC 2.04.050.I and for the reasons stated above and in the City Administrator's report accompanying this item, the City Council finds and determines that it is in the best interests of the City to waive the formal advertising and bidding requirements for the City's participation in PG&E's OBF program and so waives the requirements; and be it

FURTHER RESOLVED: That this Resolution shall become effective immediately, unless otherwise required by the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That this Resolution shall be reviewed and approved by the Office of the City Attorney for form and legality and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, and PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California