

## **RESOLUTION NO. 2007-372**

Adopted by the Sacramento City Council

June 12, 2007

### **DECLARE CONTRACT AWARD TO FERGUSON ENTERPRISES A NULLITY AND AUTHORIZE AMENDMENTS TO PLUMBING SUPPLIES CONTRACTS**

#### **BACKGROUND**

- A. On February 27, 2007, the City Council awarded contracts to Groeniger & Company and Ferguson Enterprises for the purchase of plumbing supplies. Groeniger & Company subsequently executed a contract, but Ferguson Enterprises refused to sign the Declaration of Compliance with the City's Equal Benefits Ordinance, which is a part of the City contract. Compliance with these requirements is mandatory for City contracts of more than \$25,000, unless a waiver is authorized under the City Code. The contract with Ferguson Enterprises did not qualify for a waiver.
- B. When a bidder to whom a contract is awarded fails to fully execute the contract, City Code Section 3.56.170 authorizes the City Council to declare the award a nullity and award the contract to the next lowest responsible bidder. In this case, based on the bid results for Bid B071181026, Groeniger & Company was the next lowest responsible bidder for all the bid categories included in the contract awarded to Ferguson Enterprises.
- C. The City has had uninterrupted plumbing supply contracts with both Groeniger & Company and Ferguson Enterprises for over 15 years. In anticipation of a pending contract, and knowing that Ferguson's previous contract was still in effect, the City placed plumbing orders with Ferguson Enterprises to handle ongoing requirements, not realizing that the maximum payment amount of the previous contract had been exceeded. Ferguson received and filled City orders in a total amount of \$196,351.10. Because these orders were placed by the City, and the supplies will be used to meet ongoing City needs, City staff has recommended that the City Council approve payment to Ferguson Enterprises for these outstanding invoices.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The contract for plumbing supplies awarded on Bid B071181026 to Ferguson Enterprises on February 27, 2007, is declared a nullity due to Ferguson Enterprise's failure to enter into a contract.

Section 2. The City Manager is authorized to execute Amendment No. 1 to City Agreement 2005-0118 for the payment of outstanding invoices to Ferguson Enterprises for plumbing purchases in an amount not to exceed \$196,532.

Section 3. The City Manager is authorized to execute Amendment No. 1 to City Contract CO 2007-035, awarded on February 27, 2007, to Groeniger & Company, to include all items from Bid B071181026 into the contract, and increase the dollar amount of the contract from \$1,665,000 to a not-to-exceed amount of \$3,582,000 for this three year contract.

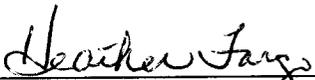
Adopted by the City of Sacramento City Council on June 12, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.

  
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Mayor Heather Fargo

Attest:  
  
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Shirley Concolino, City Clerk