

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 APR 29 AM 9:07  
Council District 9

**To:** Office of the City Manager  
**Attn:** Deborah Edgerly  
**From:** Public Works Agency  
**Date:** May 11, 2004

**Re: RESOLUTION AUTHORIZING AWARD OF A CONSTRUCTION CONTRACT TO MCGUIRE AND HESTER FOR RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NO. C234930) IN THE AMOUNT OF \$3,928,797.40**

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**SUMMARY**

Staff recommends Council approval of a resolution authorizing the City Manager to award a construction contract to McGuire and Hester for the resurfacing of certain streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930) in the Amount of \$3,928,797.40.

**FISCAL IMPACT**

The engineer's estimate for the construction work is \$4,439,298.00 and the construction contract will be in the amount of \$3,928,797.40. Funding comes from Measure B (ACTIA). Sufficient funds are available for the construction work in Fund 2211, Organization 92480, Account 57411, and Project C234930. Funds have set aside for Contract Compliance and will be transferred into Fund 2211, Organization 92480, Account 56918, and Project C234930 upon award. The 1.5 percent assessment for public arts was not allowed as part of this grant.

**BACKGROUND**

On January 5, 2004, the City Clerk received four bids for the project as shown on *Attachment A*. The project consists of the resurfacing of approximately 15 centerline miles of streets. The streets scheduled to be resurfaced are shown on *Attachment B*.

**KEY ISSUES AND IMPACTS**

Construction work is scheduled to begin in June 2004 and will be completed by July 2005. The contract specifies \$500 in liquidated damages per calendar day if the contractor exceeds the contract completion time of 260 working days. The project schedule is shown on *Attachment A*.

ACTIA's Local/ Small Local Business Enterprise program was used for this project. ACTIA requires that its LBE/SLBE program be used on all of their sponsored projects. ACTIA's goals are sixty percent Local Business Enterprise of which twenty percent must be Small Local Business Enterprise, which exceeds the City's requirements. McGuire and Hester's SLBE participation was 18.5% and the LBE participation was 78.6% at the time of the bid opening. The Good Faith Efforts were reviewed by ACTIA and it was determined that McGuire and Hester's Good Faith Effort did not meet ACTIA's LBE/SLBE goals. The LBE/SLBE information at the time of bid opening has been verified by the Contract Compliance Division of the City Manager's Office and is shown in *Attachment C*. Under ACTIA's LBE/SLBE program,

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the Prime Contractor may appeal the rejection of its bid to the Good Faith Effort Review Committee. The ACTIA LBE/SLBE Program further specifies that the Committee will review the decision to award a contract based on Good Faith Effort when the LBE/SLBE Goals are not met and the Committee's decision on the Prime Contactor's Good Faith Effort shall be final.

McGuire and Hester was notified by the City of Oakland on March 25, 2004 that they did not meet the LBE/SLBE goals and their good faith effort was not satisfactory. After receiving notification from the City, McGuire and Hester submitted a written protest of the results on March 26, 2004 to the City and ACTIA. The Good Faith Effort Review Committee was formed by ACTIA in accord with ACTIA's LBE/SLBE Program. The Committee consisted of an Authority Board Member, an Authority Staff Member, and a City Representative. The hearing was held on April 20, 2004. The Committee ruled that McGuire and Hester did provide a Good Faith Effort. The Good Faith Effort Review Committee results are shown in *Attachment D*.

One of McGuire and Hester's subcontractors, Union City Construction, was not certified at the time of bid opening but has since been certified (March 18, 2004) by ACTIA as an SLBE. The addition of Union City Construction as an SLBE, brings McGuire and Hester into compliance with ACTIA's LBE/SLBE goals. They now have participation levels of 21.3% SLBE and 78.6% LBE. The current total LBE/SLBE participation level is 100%.

The second lowest bidder, Gallagher and Burk Inc.'s bid was \$63,592 (1.6% of the total contract amount) higher than the lowest bidder and was under the engineer's estimate. They also met the ACTIA LBE/SLBE goals at the time of bid opening (20.2% SLBE and 79.7% LBE). The table below shows a comparison of the two lowest bidders and the LBE/SLBE percentages.

Bid Amount	McGuire and Hester		Gallagher and Burk, Inc.	
	January 5, 2004	March 18, 2004	January 5, 2004	March 18, 2004
	\$3,928,797		\$3,992,389	
SLBE Participation	18.5	21.3	20.2	20.2
LBE Participation	78.6	78.6	79.7	79.7
Total Participation	97.1	100	100	100

### SUSTAINABLE OPPORTUNITIES

**Economic:** All public works contracts require prevailing rate of wages. Prevailing wages offer a livable wage rate for workers and can contribute to an increased quality of life. The \$3,928,797 of funds from this contract will turn over in the community and help to stimulate the economic base.

**Environmental:** New asphalt pavement contains as much as 15% recycled asphalt. This project also uses rubberized asphalt on certain streets. A two inch rubberized asphalt overlay contains approximately 2,000 tires per lane mile. It is estimated that over 35,000 recycled tires will be used for this project.

**Social Equity:** ACTIA's goals reflect the social equity policies of the City of Oakland whereby the inclusion of small local firms and Oakland residents are afforded access to contracting and employment opportunities. The City uses a pavement management system to determine which streets are candidates for repairs. Resurfacing is based on each street's pavement condition index (PCI).

**DISABILITY AND SENIOR CITIZEN ACCESS**

Street resurfacing will eliminate potholes and provide a uniform travel surface for pedestrians using crosswalks.

**RECOMMENDATION AND RATIONALE**

It is recommended that the City Manager be authorized to award a construction contract to McGuire and Hester for the resurfacing of certain streets in the City of Oakland for fiscal year 2003-2004 (Project No. C234930) in the amount of \$3,928,797.40. McGuire and Hester was the lowest responsible responsive bidder and has complied with the LBE/SLBE goals.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



**RAUL GODINEZ II**

Director, Public Works Agency

Reviewed by:

Brooke A. Levin

Interim Assistant Director, Public Works Agency

Maintenance Services Department

Prepared by:

Dwight A. Chambers

Operations Manager, Public Works Agency

Street and Sidewalk Maintenance

APPROVED AND FORWARDED TO THE  
PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY MANAGER

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*Attachment A*

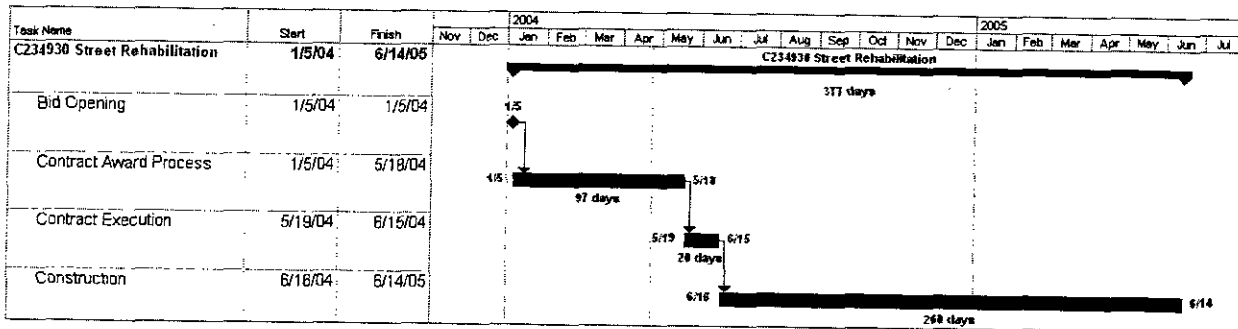
**Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004**

**(Project C234930)**

**List of Bidders**

Company	Status	Location	Bid Amount
McGuire & Hester	Local Business	Oakland	\$ 3,928,797
Gallagher & Burk, Inc.	Local Business	Oakland	\$ 3,992,389
Granite Construction Company	Uncertified	Watsonville	\$ 4,300,482
Ghilotti Construction Company	Uncertified	Santa Rosa	\$ 4,313,384

**Project Schedule**



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**Attachment B**  
**Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004**  
**Pavement Resurfacing Locations**

	STREET	FROM	TO	RESURFACING METHOD	AREA (SY)	DIST
1	11TH ST	BROADWAY	MADISON ST	2" MILL & 2" RUBBER	16,618	2
2	12TH AV	E 8TH ST	E 20TH ST	1 1/2" OVERLAY	9,270	2
3	13TH ST	BROADWAY	FALLON ST	1 1/2" OVERLAY	15,098	2
4	17TH AV	E 19TH ST	E 24TH ST	1 1/2" OVERLAY	8,120	2
5	29TH ST	HARRISON ST	TELEGRAPH AV	1 1/2" OVERLAY	10,274	3
6	3RD ST	OAK ST	LINDEN ST	1 1/2" OVERLAY	34,944	3
7	41ST ST	42ND ST	TELEGRAPH AV	1 1/2" OVERLAY	1,544	1
8	41ST ST	BROADWAY	TELEGRAPH AV	1 1/2" OVERLAY	9,312	1
9	42ND ST	ML KING WY	CITY LIMIT	1 1/2" OVERLAY	8,967	1
10	52ND ST	MARKET ST	WEST ST	1 1/2" OVERLAY	4,001	1
11	5TH ST	OAK ST	HARRISON ST	2" MILL & FILL	8,048	3
12	82ND AV	MACARTHUR BL	SUNKIST DR	1 1/2" OVERLAY	7,627	6
13	BOSTON AV	MACARTHUR BL	BRIDGE	1 1/2" OVERLAY	2,037	4
14	BOSTON AV	MACARTHUR BL	EAST END	1 1/2" OVERLAY	1,580	4
15	BRUNS CT	LA SALLE AV	NORTH END	2" MILL & FILL	1,544	4
16	BULLARD DR	ESTATES DR	ESTATES DR	1 1/2" OVERLAY	5,240	4
17	CHELTON DR	ELDERBERRY DR	EXTER DR	2" MILL & FILL	1,237	4
18	COOLIDGE AV	BROOKDALE AV	MACARTHUR BV	2" MILL & 2" RUBBER	10,003	4 & 5
19	DONNA WY	ELYSIAN FIELDS	ELYSIAN FIELDS	1 1/2" OVERLAY	5,636	7
20	DORAN DR	AITKEN DR	BANNING DR	1 1/2" OVERLAY	1,320	4
21	E 17TH ST	FRUITVALE AV	NORTH END	1 1/2" OVERLAY	2,273	5
22	E 18TH ST	FRUITVALE AV	NORTH END	1 1/2" OVERLAY	980	5
23	EDES AV	HEGENBERGER RD	85TH AV	1 1/2" OVERLAY / 2" MILL & FILL	10,168	7
24	EL DORADO AV	FAIRMOUNT AV	BAYO VISTA AV	1 1/2" OVERLAY	3,512	1
25	FOOTHILL BL	35TH AV	HIGH ST	2" RUBBER OVERLAY	15,751	5
26	FOOTHILL BL	FRUITVALE AV	35TH AV	2" RUBBER OVERLAY	5,249	5
27	FOOTHILL BL	HIGH ST	55TH AV	2" RUBBER OVERLAY	27,912	5 & 6
28	FOX HILL CT	PEBBLE BEACH CT	EAST END	1 1/2" OVERLAY	838	7
29	GOLF LINKS RD	FONTAINE ST	98TH AV	2" RUBBER OVERLAY	9,147	7
30	GRASS VALLEY RD	SKYLINE BL	GOLF LINKS RD	1 1/2" OVERLAY	8,600	7
31	HADDON RD	PARK BL	HILLGIRT CIR	1 1/2" OVERLAY	9,152	2
32	HERRIER ST	NORTON AV	VICTOR AV	1 1/2" OVERLAY	3,524	4
33	HOLLY ST	70TH AV	90TH AV	1 1/2" OVERLAY	19,868	6 & 7
34	LAS VEGAS AV	98TH AV	WEST END	2" MILL & FILL	1,543	7
35	LEE ST	GRAND AV	VAN BUREN AV	1 1/2" OVERLAY	2,478	3
36	REDWOOD RD	CRESTMONT DR	SKYLINE BL	2" MILL & 2" RUBBER	12,739	4 & 6

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37	REDWOOD RD	HWY 13	CRESTMONT DR	2" MILL & 2" RUBBER	22,517	4 & 6
38	SHEPHERD CYN RD	SKYLINE BL	AITKEN DR	2" MILL & 2" RUBBER	3,893	4
39	SONOMA WAY	20TH AV	SOUTH END	1 1/2" OVERLAY	1,394	2
40	STEARNS AV	9555 STEARNS AV	BURR ST	1 1/2" OVERLAY	768	7
41	VALE AV	BAYO ST	HARBORD VIEW DR	1 1/2" OVERLAY	3,817	4
42	WELLINGTON ST	PARK BL	CANNON AV	2" MILL & FILL	4,556	5
43	WOODLAND PL	BROADWAY TERR	SOUTH END	2" MILL & FILL	734	1
44	YORK ST	PRINCE ST	MANDANA BL	2" MILL & FILL	2,194	2

**Contract Compliance and  
Employment Services Division  
Office of the City Manager**

## Memorandum

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**Date:** January 23, 2004

**From:** Deborah Barnes, CC&ES Manager *Deborah Barnes*

**To:** Gwen McCormick, PWA Contract Administration Supervisor

**Regarding:** Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 - Project# C234930 with Alameda County Transportation Improvement Authority (ACTIA) goals.

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Contract Compliance & Employment Services reviewed three of the lowest bids for the above referenced project. Maguire & Hester the low bidder did not meet the L/SLBE ACTIA goal and did not meet the good faith effort defined by ACTIA. Gallagher & Burk the second lowest bidder met the L/SLBE ACTIA goal and Granite posted 9.7 percent SLBE only and did not meet the L/SLBE ACTIA goal as listed below:

Company Name	LBE	SLBE	Total
McGuire & Hester	78.6%	18.5%	97.1%
Gallagher & Burk	79.7%	20.2%	100%
Granite Construction	0%	9.7%	9.7%

CC: Attachments

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PUBLIC WORKS CMTE.

MAY 11 2004



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION  
OFFICE OF THE CITY MANAGER

Attachment C

**Contract Compliance Evaluation Form**

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: McGuire & Hester

Contractor's bid amount: \$3,928,797

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount: =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
<b>ADJUSTED LBE % TOTAL:</b>	<b>ADJUSTED BID TOTAL: \$3,928,797</b>

- Did the Contractor meet the LBE/SLBE goals?  **No**
  - % of LBE participation 78.68%
  - % of SLBE participation 18.53%
- Did the Contractor meet the Trucking goal?  **NA** (Trucking goal not specified by ACTIA)
  - % of local trucking participation 100%
- If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements?  **No**  
(If no, explain reasons for failure to meet GFE.)  
Alameda County Transportation Improvement Authority (ACTIA) provided the Good Faith Effort review. See attached.
- Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/22/2004
- Is the contractor in compliance with all LBE/SLBE requirements?  **No** (If no, explain below)  
Good Faith Effort was unsatisfactory.

Reviewing Officer: \_\_\_\_\_

Date: 1/22/2004

Approved By: Deborah Barnes

Date: 1/22/04



# LBE/SLBE PARTICIPATION

## Lowest Bidder

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Engineer Estimate: \$4,439,298

Bid Amount: \$3,928,797

Difference: <\$510,501 >

Project No.: C234930

TRADE	Line #	Prime and Subs	LOCATION	Cert. Status	LBE	SLBE	TOTAL LBE/SLBE	Local Trucking	Trucking	TOTAL BID \$ Amount	ETH	MBE	WBE		
Prime	1	McGuire & Hester	Oakland	CB	\$1,450,271	\$1,450,271	\$1,450,271			\$1,450,271.40					
Concrete	2	Vanguard Construction	Oakland	CB	\$216,756	\$216,756	\$216,756			\$216,756.00					
Stripping	3	Stripping Express	Oakland	CB	\$97,350	\$97,350	\$97,350			\$97,350.00					
Raise Utilities	4	Union City Construction	Fremont	UB			\$109,420.00			\$109,420.00					
Asphalt	5	Dutra Material	San Rafael	CB	\$1,641,000		\$1,641,000.00			\$1,641,000.00					
Trucking	6	Monroe's Trucking	Oakland	CB	\$414,000	\$414,000	\$414,000	\$414,000	\$414,000	\$414,000.00	AA	\$414,000			
Called D.C.C. they are not certified with anyone as a slbe.															
Project Subtotals:					\$3,091,271	\$728,106	\$2,178,377	\$414,000	\$414,000	\$3,928,797		\$414,000	0%		
					78.68%	18.53%	55.45%	100%	100%	100%		10.54%			

5% credit for LBE/SLBE Preference: X 5% =

5% credit for Joint Venture Preference: X 5% =

5% credit for Mentor Protégé Preference: X 5% =

Calculation Amount: X 5% =

If yes, 5% is added to the overall Total LBE percentage goal.

ADJUSTED LBE % TOTAL: ADJUSTED BID TOTAL: \$3,928,797

**GOALS:**  
The 50% ALL LBE goal is a combination of 15% LBE and 35% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% goal. LBE firms can only be counted up to 15% of the total contract amount. The Local Trucking goal is 50% of the ALL trucking contract amount.

**LEGEND:**  
ALL LBE All certified Local and Small Local Businesses  
LBE Local Business Enterprise  
SLBE Small Local Business Enterprise  
LIRU Local Trucking Businesses  
CB Certified Business  
UB Uncertified Business  
AA African American  
H Hispanic American  
A Asian American  
NA Native American  
C Caucasian  
MBE Minority Business Enterprise  
WBE Woman Business Enterprise



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION  
OFFICE OF THE CITY MANAGER

Attachment C

Contract Compliance Evaluation Form

**REVISED**

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: Gallagher & Burk, Inc.

Contractor's bid amount: \$3,992,989 *AK*

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount: =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
ADJUSTED LBE % TOTAL:	ADJUSTED BID TOTAL: <u>\$3,992,989</u> <i>AK</i>

- Did the Contractor meet the LBE/SLBE goals?  Yes
  - % of LBE participation 79.71%
  - % of SLBE participation 20.29%
- Did the Contractor meet the Trucking goal?  NA *(Trucking Goals not specified as ACTA goal)*
  - % of local trucking participation 100%
- If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements?  NA  
(If no, explain reasons for failure to meet GFE.)

- Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/23/2004
- Is the contractor in compliance with all LBE/SLBE requirements?  Yes (If no, explain below)

Reviewing Officer: *D. Murray*

Date: 1/23/2004

Approved By: *Deborah Bauer*

Date: \_\_\_\_\_

## Attachment C LBE/SLBE PARTICIPATION

### 2nd Bidder

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Engineer Estimate: \$4,439,298

Bid Amount: \$3,992,389

Difference: <\$416,910>

Project No.: C234930

TRADE	Line #	Prime and Subs	LOCATION	Cert. Status	LBE	SLBE	TOTAL LBE/SLBE	Local Trucking	Trucking	TOTAL BID \$ Amount	ETH	MBE	WBE																			
Prime	1	Gallagher & Burk, Inc.	Oakland	CB	\$3,182,389		\$3,182,389			\$3,182,389																						
Striping	2	Striping Express	Oakland	CB	\$100,000	\$100,000	\$100,000			\$100,000	AA	\$100,000																				
Concrete	3	AJW	Oakland	CB		\$210,000	\$210,000			\$210,000	H	\$210,000																				
Trucking	4	Monroe Trucking	Oakland	CB	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	AA	\$250,000																				
Trucking	5	William's Trucking	Oakland	CB	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	AA	\$150,000																				
Trucking	6	Ola's Trucking	Oakland	CB	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	AA	\$100,000																				
<b>Project Subtotals:</b>																																
											\$3,992,389	100%	\$810,000	20%	\$500,000	100%	\$500,000	100%	\$3,992,389	100%	\$810,000	20%	\$500,000	100%	\$500,000	100%	\$3,992,389	100%	\$810,000	20%	\$500,000	100%

5% credit for LBE/SLBE Preference: <span style="border: 1px solid black; padding: 2px 20px;"> </span> =	5% of the TOTAL BID Amount:
5% credit for Joint Venture Preference: <span style="border: 1px solid black; padding: 2px 20px;"> </span>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <span style="border: 1px solid black; padding: 2px 20px;"> </span>	If yes, 5% is added to the overall Total LBE percentage goal.
<b>ADJUSTED BID TOTAL:</b> \$3,992,389	

**GOALS:**  
The 50% ALL LBE goal is a combination of 15% LBE and 35% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% goal. LBE firms can only be counted up to 15% of the total contract amount. The Local Trucking goal is 50% of the ALL trucking contract amount.

**LEGEND:**  
ALL LBE  
LBE  
SLBE  
LWB

All certified Local and Small Local Businesses  
Local Business Enterprise  
Small Local Business Enterprise  
Local Trucking Businesses

CB Certified Business  
UB Uncertified Business  
AA African American  
H Hispanic American  
A Asian American

NA Native American  
C Caucasion  
MBE Minority Business Enterprise  
WBE Woman Business Enterprise



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION  
OFFICE OF THE CITY MANAGER

Attachment C

**Contract Compliance Evaluation Form**

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: Granite Construction

Contractor's bid amount: \$4,300,482

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount: =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
<b>ADJUSTED LBE % TOTAL:</b>	<b>ADJUSTED BID TOTAL: \$4,300,482</b>

1. Did the Contractor meet the LBE/SLBE goals?  No

a) % of LBE participation 0.00%

b) % of SLBE participation 9.79%

2. Did the Contractor meet the Trucking goal?  NA

a) % of local trucking participation 100%

3. If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements?  No

(If no, explain reasons for failure to meet GFE.) *Trucking goal not specified by ACTIA goal*

Contractor did not submit a good faith effort.

4. Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/23/2004

5. Is the contractor in compliance with all LBE/SLBE requirements?  No (If no, explain below)

Contractor did not submit a good faith effort.

Reviewing Officer:

*[Signature]*

Date: 1/23/2004

Approved By:

*[Signature]*

Date: 1/23/2004

# Attachment C LBE/SLBE PARTICIPATION

3rd Bidder

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Engineer Estimate: \$4,439,298

Bid Amount: \$4,300,482

Difference: <\$138,817>

Project No.: C234930

TRADE	Line #	Prime and Subs	LOCATION	Cert. Status	LBE	SLBE	TOTAL LBE/SLBE	Local Trucking	Trucking	TOTAL BID \$ Amount	ETH	MBE	WBE	
Prime	1	Granite Construction	Watsonville	UB						\$1,426,088				
Adjust Casting	2	Union City Construction	Fremont	UB						\$118,000		\$118,000		
Concrete	3	J.W. Riley & Sons	Emeryville	CB		\$174,224	\$174,224			\$174,224	AA	\$174,224		
Striping	4	Rileys Striping	Benicia	UB						\$98,345				
Mill AC	5	FMG	Santa Clara	UB						\$267,000	AA	\$400,000		
Asphalt	6	Granite Construction	Pleasanton	UB						\$1,740,000	AA	\$100,000		
Dump	7	Specialty Crushing	Oakland	CB		\$16,825	\$16,825			\$16,825				
Trucking	8	Monroe Trucking	Oakland	CB		\$230,000	\$230,000	\$230,000	\$230,000	\$230,000	AA	\$230,000		
Trucking	9	Mag Trucking	Hayward	CB						\$230,000				
Project Subtotals:														
5% credit for LBE/SLBE Preference:														
5% credit for Joint Venture Preference:														
5% credit for Mentor Protégé Preference:														
5% of the TOTAL BID Amount:														
Calculation Amount:											X	5%	=	
If yes, 5% is added to the overall Total LBE percentage goal.														
ADJUSTED LBE % TOTAL:														
ADJUSTED BID TOTAL:														\$1,300,482

**GOALS:**  
 The 50% ALL LBE goal is a combination of 15% LBE and 35% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% goal. LBE firms can only be counted up to 15% of the total contract amount. The Local Trucking goal is 50% of the ALL trucking contract amount.

**LEGEND:**  
 ALL LBE    All certified Local and Small Local Businesses  
 LBE        Local Business Enterprise  
 SLBE       Small Local Business Enterprise  
 LTRU      Local Trucking Businesses

CB Certified Business    NA Native American  
 UB Uncertified Business    C Caucasion  
 AA African American    MBE Minority Business Enterprise  
 H Hispanic American    WBE Woman Business Enterprise  
 A Asian American



426 17th Street  
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510/893-3347

Facsimile:  
510/893-6489

Webpage:  
www.ACTIA2022.com

April 22, 2004

Mr. Raul Godinez II,  
Public Works Director  
City of Oakland  
250 Frank Ogawa Plaza  
Oakland, CA

**Subject:** Oakland Local Streets Resurfacing Project (ACTIA No. 16)  
City Project No. C234930 -- McGuire & Hester Bid

*Nate Miley, Chair  
Supervisor, District 4*

*Roberta Cooper, Vice-Chair  
Mayor, City of Hayward*

*Tom Bates  
Mayor, City of Berkeley*

*Keith Carson  
Supervisor, District 5*

*Henry Chang, Jr.  
Vice Mayor, City of Oakland*

*Mark Green  
Mayor, City of Union City*

*Scott Haggerty  
Supervisor, District 1*

*Alice Lai-Bitker  
Supervisor, District 3*

*Gus Morrison  
Mayor, City of Fremont*

*Gail Steele  
Supervisor, District 2*

*Shelia Young  
Mayor, City of San Leandro*

*Christine Monsen  
Executive Director*

Dear Mr. Godinez:

This letter is the formal report of the results of the ACTIA Good Faith Review Committee hearing concerning the appeal by McGuire & Hester of the determination that it had not made a good faith effort to meet the ACTIA Small Local Business Enterprise ("SLBE") Goal of 20% participation for City of Oakland Project No. C234930 for resurfacing of certain Oakland City Streets in 2003/2004. The Good Faith Review Committee consisted of Miriam Hawley, an ACTIA Board Member, Lennon Harris, a Port of Oakland employee appointed by Oakland, and Arthur Dao, ACTIA Deputy Director as an ACTIA staff member.

The Committee conducted a hearing on April 20, 2004, and heard presentations from ACTIA staff, from Mason Tillman & Associates, ACTIA's affirmative action consultant and from representatives of McGuire & Hester. The Committee unanimously decided that on the basis of the total evidence presented, McGuire & Hester did demonstrate good faith efforts in meeting the SLBE goal for this contract. This decision was based on the following: (i) McGuire & Hester had been determined to have met 8 of the 12 objective criteria for demonstration of a Good Faith Effort prior to the hearing, (ii) at the hearing McGuire & Hester presented satisfactory evidence of good faith efforts in at least two additional categories (Negotiation in good faith and Not rejecting LBEs and SLBEs without sound reasons), (iii) McGuire & Hester had achieved 18.5% SLBE participation at bid opening, (iv) 4 out of 5 subcontractors listed at bid opening were certified SLBEs and (v) McGuire & Hester will in fact have 21.3% SLBE participation counting the participation of Union City Construction which was certified as an SLBE after bid opening and prior to the hearing, as well as other facts presented at the hearing.

Mr. Raul Godinez II

April 22, 2004

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Based on this decision, which is final pursuant to the ACTIA LBE and SLBE Program, McGuire & Hester is a responsive bidder regarding the LBE/SLBE goals and if otherwise qualified should be awarded the contract as the low bidder.

If you have any questions regarding this letter, please contact me or Arthur Dao, Deputy Director, at (510) 893-3347.

Sincerely,



CHRISTINE E. MONSEN  
Executive Director

cc: Zach Wasserman, Authority's Legal Counsel -- Wendel Rosen Black & Dean  
Jaime Heredia, Project Manager -- City of Oakland  
Dwight Chambers, Operations Manager -- City of Oakland  
Deborah Barnes, Contract Compliance Manager -- City of Oakland  
Rocio Fierro, Deputy City Attorney -- City of Oakland  
Eric Cordoba, ACTIA Project Controls  
Tommy Smith, Project Manager -- Mason Tillman Associates  
Arthur L. Dao, Deputy Director -- ACTA/ACTIA  
Anees Azad, Finance and Administration Manager -- ACTA/ACTIA  
Lennon Harris -- Port of Oakland  
Miriam Hawley -- City of Berkeley  
ACTIA File 16.7.1  
Chron File

9  
PUBLIC WORKS CMTE.

MAY 11 2004



2004 APR 29 AM 9:07  
INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_

Requires two-thirds vote of the Council

**RESOLUTION AUTHORIZING AWARD OF A CONSTRUCTION CONTRACT TO MCGUIRE AND HESTER FOR RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NO. C234930) IN THE AMOUNT OF \$3,928,797.40**

**WHEREAS**, funding for street resurfacing has been appropriated in the fiscal year 2003-04 budget using Measure B (ACTIA) funds; and

**WHEREAS**, on January 5, 2003, four bids were received by the Office of the City Clerk of the City of Oakland for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930); and,

**WHEREAS**, **McGuire and Hester**, is the lowest responsible bidder for the project and has met the local/ small local business enterprise goals; and

**WHEREAS**, there are sufficient funds in Fund 2211, Org. 92480, Account 57411, Project C234930, for the construction work; and

**WHEREAS**, the engineer's estimate for the work is \$4,439,298.00; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary repairs; and

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

**WHEREAS**, the City Council finds and determines that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**WHEREAS**, the performance of the services by contract is in the public interest because of economy or performance, and 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 the contract for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930) is hereby awarded to **McGuire and Hester**, in accordance with the terms of its bid therefore, dated January 5, 2004 in the amount of three million, nine hundred twenty eight thousand, seven hundred ninety seven and 40/100 Dollars (\$3,928,797.40); and, be it

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**PUBLIC WORKS CMTE.**

**MAY 11 2004**



**FURTHER RESOLVED:** That the amount of the bond for faithful performance, \$1,964,399, and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for amount due under the Unemployment Insurance Act, \$3,928,797.40, with respect to such work are hereby approved; and be it

**FURTHER RESOLVED:** That the City Manager is hereby directed to enter into a contract with **McGuire and Hester** on behalf of the City of Oakland and to execute any amendments, extensions or modifications of said agreement, within the limitations of the project specifications; and be it

**FURTHER RESOLVED:** That all other bids are hereby rejected; and be it

**FURTHER RESOLVED:** That the Contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to post conspicuously forthwith notice of the above award on the official bulletin board in the Office of the City Clerk; and be it

**FURTHER RESOLVED:** That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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**PUBLIC WORKS CMTE.**  
**MAY 11 2004**