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OFFICE OF THE CITY CLERK  
OAKLAND

2012 NOV 14 PM 4:06

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Various Streets Resurfacing and  
Bikeway Facilities

DATE: October 17, 2012

City Administrator  
Approval

Date

11/13/12

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Staff recommends that the City Council approve a resolution awarding a construction contract to Gallagher & Burk, Inc., in accord with plans and specifications for Various Street Resurfacing and Bikeway Facilities (Project #G427410) in the amount of Six Million Two Hundred Seventy-Nine Thousand Three Hundred Sixty-One Dollars (\$6,279,361.00)

## OUTCOME

As part of the City's street resurfacing program to improve pavement conditions, the selected streets will be rehabilitated to maintain the City's infrastructure, reduce maintenance costs, and improve driving conditions throughout Oakland. The work to be completed under this project is part of the City's street resurfacing program and includes streets from the City's Prioritized Paving Plan. The work is located throughout the City and a list of streets to be resurfaced is included as *Attachment A*.

## BACKGROUND/LEGISLATIVE HISTORY

In general, the proposed work consists of resurfacing approximately 5.73 centerline miles of City streets. The streets are listed in *Attachment A*. The project includes: Asphalt Concrete (AC) base repair; AC Mill and Overlay; Crack Sealing; Slurry Sealing; Replacement of traffic striping, pavement markers, and pavement markings; Curb Ramp Construction; Curb and Gutter Repair; Sidewalk Repair; and other related work indicated on the plans and specifications.

Funding for this street resurfacing project is from the Alameda County Transportation Commission's (ACTC) Block Grant Program, funded and programmed by the Metropolitan Transportation Commission (MTC) with federal Surface Transportation Program (STP) and

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Congestion Mitigation and Air Quality Improvement (CMAQ) funds. Streets selected must be Federal Aid Urban (FAU) streets, which include Arterial and Collector streets; residential streets are not eligible for federal funding.

This project is part of the citywide program to improve pavement conditions. Oakland has a current backlog of \$435 million in pavement rehabilitation. While small, this contract will help address some of the backlog. Construction work is anticipated to begin in December 2012 and should be completed by May 2013. The contract specifies \$6,000.00 in liquidated damages per calendar day dependent on specific project locations. The project schedule is shown in **Attachment B**.

The streets selected for this project are from the 5 Year Paving Plan adopted by Council in 2007. The 5 Year Paving Plan represents the City's "best-first" policy which focuses more on street pavement preservation rather than reconstruction. The MTC-developed software program was used to select the most cost-effective streets for rehabilitation which was then approved by Council in 2007. Approximately 28 miles has been paved to-date and approximately 17 miles are remaining. Based on the current funding level, the remaining locations are projected to be completed by 2015. A map and list of the 5 Year Paving Plan is provided in the City's Pavement Management Program web page:

<http://www2.oaklandnet.com/Government/o/PWA/o/EC/s/STS/OAK030328>

### ANALYSIS

On September 13, 2012, the City Clerk received one bid for the project as shown.

Company	Location	Bid Amount
Gallagher & Burk, Inc.	Oakland	\$6,279,361.00
Engineer's Estimate		\$6,444,341.44

Gallagher & Burk, Inc. is deemed responsive and responsible, and therefore is recommended for the award.

Under the proposed contract with Gallagher & Burk Inc., the Underutilized Disadvantaged Business Enterprise (UDBE) participation will be 13.42%, which exceeds the required 4.08% Race Conscious, 9.01% Race Neutral UDBE requirement. The Disadvantaged Business Enterprises (DBE) participation will be 13.42%, which exceeds the 9.01% DBE requirement. The contractor also shows a participation of 100% for trucking, which exceeds the 50% Local Trucking requirement. The UDBE/DBE information has been verified by the Social Equity Division of the Department of Contracting and Purchasing and is shown in **Attachment C**. Staff

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has reviewed the submitted bid for this work and has determined that the bid is reasonable for the current construction climate.

### COORDINATION

Offices consulted in the preparation of this report are the following:

- Office of the City Attorney
- City Budget Office
- Public Works Agency – Department of Infrastructure and Operations

### COST SUMMARY/IMPLICATIONS

Approval of this resolution will authorize the City Administrator to execute a construction contract with Gallagher & Burk, Inc. in the amount of \$6,279,361.00.

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:  
Construction Contract - \$6,279,361.00
2. COST ELEMENTS OF AGREEMENT/CONTRACT: \$6,279,361.00
3. SOURCE OF FUNDING:
  1. Metropolitan Transportation Commission (MTC) federal Surface Transportation Program (STP) Fund (2163); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427410; \$3,067,000.00;
  2. Metropolitan Transportation Commission (MTC) Congestion Mitigation and Air Quality Improvement (CMAQ) Fund (2163); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427410; \$425,000.00;
  3. Local Match Fund Measure B Local Streets and Roads Fund (2211); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427420; \$400,000.00;
  4. Local Match Fund Measure B Bicycle and Pedestrian Fund (2212); Capital Project-Engineering and Design (92246), Street Construction Account (57411); Project No. G427430; \$56,400.00;
  5. California Gas Tax (2231); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C427810; \$2,330,961.00.
4. FISCAL IMPACT:  
This resurfacing contract will rehabilitate and reconstruct selected streets, and improve existing pavement conditions, which will reduce the short-term street pavement maintenance demand on these resurfaced streets.

## **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

Contractor Performance Evaluation for Gallagher & Burk, Inc. from a previously completed project was satisfactory and is included as *Attachment D*.

## **SUSTAINABLE OPPORTUNITIES**

*Economic:* The street rehabilitation program improves paving conditions, enhancing and protecting the City's infrastructure. Street repair and rehabilitation contracts create job opportunities for local contractors. Streets in good condition reflect well on the community and indirectly improve the business climate.


*Environmental:* Recyclable materials will be used within the concrete and asphalt concrete construction materials to the extent possible. Grindings from the asphalt paving will be recycled whenever possible. This project will use several paving methods in various locations promoting recycling. The conventional Hot Mix Asphalt requiring new asphalt material requires a minimum of 15% recycled asphalt.

In addition, this contract will create new bike lanes which will further encourage residents to use bicycles more and drive less, thereby helping to reduce air pollution and traffic congestion. Improved pavement conditions reduce vehicle wear and tear and increase fuel efficiency.

*Social Equity:* The street rehabilitation program works to preserve the City's infrastructure, enhance public access and protect the public from hazardous conditions. The Pavement Management Program ensures that street rehabilitation funds are spent in a manner that is cost effective throughout the City.

For questions regarding this report, please contact Gus Amirzehni, P.E., Engineering Design and Right-of-Way Manager, at (510) 238-6601.

Respectfully submitted,

  
VITALY B. TROYAN, P.E.  
Director, Public Works Agency

Reviewed by:  
Michael Neary, P.E., Assistant Director  
PWA, Department of Engineering and Construction

Reviewed by:  
Gus Amirzehni, P.E., Engineering and R.O.W Manager  
Engineering Design and R.O.W Management Division

Prepared by:  
Allen Law, P.E., Supervising Civil Engineer  
Engineering Design and R.O.W Management Division

Attachments:

- Attachment A - Project Location List
- Attachment B – Project Construction Schedule and List of Bidders
- Attachment C – Contracts & Compliance Unit Compliance Evaluation
- Attachment D – Contractor Performance Evaluation

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**Attachment A**

***Various Street Resurfacing and Bikeway Facilities  
(Project No. G427410)***



**Project Location List**

<b>Street Name</b>	<b>Begin Location</b>	<b>End Location</b>	<b>Length in Miles</b>
Broadway	38 <sup>th</sup> St	Broadway Terrace	0.74
Lakeshore Ave	Lake Park Ave	Mandana Blvd	0.24
East 12 <sup>th</sup> Street	14 <sup>th</sup> Ave	40 <sup>th</sup> Ave	1.83
Skyline Blvd	Joaquin Miller Rd	Parkridge Dr	2.06
Alcatraz Ave	City Limits	College Ave	0.86
		<b>Total</b>	<b>5.73</b>

**Attachment B**

**Various Street Resurfacing and Bikeway Facilities  
(Project No. G427410)**

**Project Construction Schedule**

ID	Task Name	Duration	Start	Finish	Feb	Mar	Apr	May	Jun	Jul	Aug
					1	G427410 Various Street Resurfacing and Bikeway Facilities	120 days	Fri 3/1/13	Thu 8/15/13		
2	Construction	120 days	Fri 3/1/13	Thu 8/15/13							

**List of Bidders**

Company	Location	Bid Amount
Gallagher & Burk, Inc.	Oakland	\$6,279,361.00
Engineer's Estimate		\$6,444,341.44

*Attachment C*

*Various Street Resurfacing and Bikeway Facilities  
(Project No. G427410)*

**Department of Contracting and Purchasing  
Compliance Evaluation**





# INTER OFFICE MEMORANDUM

**TO:** Jimmy Mach, Civil Engineer

**FROM:** Deborah Barnes

**SUBJECT:** Compliance Analysis  
 Various Streets Resurfacing and Bikeway Facilities  
 Project No. G427410

**DATE:** September 21, 2012

The City Administrator's Office, Contracts and Compliance Unit, reviewed one (1) bid in response to the above referenced project. Below is the outcome of the compliance evaluation for the Race Conscious Underutilized Disadvantaged Business Enterprise (UDBE) program and a preliminary review for compliance with the Equal Benefits Ordinance (EBO). There is a race conscious UDBE goal of 4.08% for this project.

Responsive		Proposed Participation					Earned Credits and Discounts			Banked Credits Eligibility	EBO Compliant? Y/N
Company Name	Original Bid Amount	RC UDBE Total	DBE	LBE	SLBE	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount		
Gallagher & Burk Inc.	\$6,279,361	13.42%	13.42%	70.22%	16.49%	NA	13.70%	NA	NA	NA	Y

Comments: As noted above, Gallagher & Burk, Inc. met the minimum 4.08% RC UDBE participation goals. The firm is EBO compliant.

Non-Responsive		Proposed Participation					Earned Credits and Discounts			Banked Credits Eligibility	EBO Compliant? Y/N
Company Name	Original Bid Amount	RC UDBE Total	DBE	LBE	SLBE	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount		
NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Comments: NA



For Informational Purposes

Listed below is the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program for the lowest bidder's most recently completed City of Oakland project.

Contractor Name: Gallagher & Burke  
 Project Name: Park and Street Improvements of El Embarcadero and Lakeshore  
 Project No: C242312

**50% Local Employment Program (LEP)**

Was the 50% LEP Goal achieved?	No	If no, shortfall hours?	879
Were all shortfalls satisfied?	No	If no, penalty amount	\$39,256

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	No	If no, shortfall hours?	845
Were shortfalls satisfied?	No	If no, penalty amount?	\$23,091

The spreadsheet below provides details of the 50% LEP and 15% Apprenticeship Programs. Information provided includes the following data: A) total project hours, B) core workforce hours deducted, C) LEP project employment and work hour goal; D) LEP employment and work hours achieved; E) # resident new hires; F) shortfall hours; G) percent LEP compliance; H) total apprentice hours; I) apprenticeship goal and hours achieved; and J) Apprentice shortfall hours.

Total Project Hours	50% Local Employment Program (LEP)							15% Apprenticeship Program				
	Core Workforce Hours Deducted	LEP Project Employment and Work Hours Goal		LEP Employment and Work Hours Achieved		# Resident New Hires	Shortfall Hours	% LEP Compliance	Total Oakland Apprenticeship Hours Achieved	Apprenticeship Goal and Hours		Apprentice Shortfall Hours
		Goal	Hours	Goal	Hours					Goal	Hours	
A	B	C	D	E	F	G	H	I	J			
25586	0	50%	12793	100%	8659	0	4133	47%	35%	15%	3838	2834

Comments: Gallagher & Burke did not meet the Local Employment Program's 50% resident hiring goal with 100% resident employment and did not meet the 15% Oakland Apprenticeship Program goals.

*Shelley Darenburg for*  
 Deborah Lusk Bames, Manager  
 Contracts and Compliance Unit

Should you have any questions, you may contact Sophany Hang at (510) 238-3723.



City Administrator's Office  
Contracts and Compliance

PROJECT COMPLIANCE EVALUATION FOR :

Construction Services Under-Utilized Disadvantaged Business Enterprise (UDBE)

PROJECT NO.: G427410

PROJECT NAME: Various Streets Resurfacing and Bikeway Facilities (Rebid)

CONTRACTOR: Gallagher & Burk Inc.

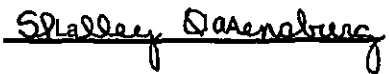
<u>Engineer's Estimate:</u>	<u>Contractors' Bid Amount</u>	<u>Over/Under Engineer's Estimate</u>
\$6,444,341.44	\$6,279,361.00	\$164,980.44

<u>Discounted Bid Amount:</u>	<u>Amt. of Bid Discount</u>	<u>Discount Points:</u>
N/A	N/A	N/A

- |   |                  |
|---|------------------|
| 1. Did the RC UDBE Program apply?                           | <u>YES</u>       |
| a) Race Conscious?  | <u>YES</u>       |
| b) Race Neutral   | <u>YES</u>       |
| 2. Did the contractor meet the RC UDBE goal of 4.08%        | <u>YES</u>       |
| a) % of RC UDBE participation                               | <u>13.42%</u>    |
| b) % of RN DBE participation                                | <u>13.42%</u>    |
| c) % of LBE participation                                   | <u>70.22%</u>    |
| d) % of SLBE participation                                  | <u>16.49%</u>    |
| 3. Was Good Faith Effort (GFE) Documentation submitted?     | <u>NO</u>        |
| 4. Did the contractor meet the L/SLBE Trucking requirement? | <u>NA</u>        |
| a) Total L/SLBE trucking participation                      | <u>NA</u>        |
| 5. Did the contractor receive bid discounts?                | <u>N/A</u>       |
| (if yes, list the percentage received)                      | <u>N/A</u>       |
| 6. Additional Comments.                                     |                  |
| <u>The UDBE Program applies to this project.</u>            |                  |
| 7. Date evaluation completed and returned to Contract       | <u>9/21/2012</u> |

Reviewing Officer: 

Date: 9/21/2012

Approved By: 

Date: 9/21/2012

## UDBE Participation Bidder 1

Project Name: Various Streets Resurfacing and Bikeway Facilities (Rebid)

Project No.: G427410		Engineer's Est \$6,444,341.44						Under/Over Engineer's Est \$54,980.44						
Discipline	Prime & Subs	Location	Cert Status	LBE Dollars	SLBE Dollars	Total LBE/SLBE Dollars	DBE Dollars	RC UDBE Dollars	Total Dollars	Certified DBEAWBE				
										Ethn.	DBE	RC UDBE	WBE	
PRIME Minor Concrete Crack Seal Slurry Seal Striping Trucking (Partial) Trucking (Partial) Trucking (Partial)	Galagher s Bulk Inc. AJW Construction Bond Blacktop Asphalt Bond Blacktop Asphalt Striping Graphics Monroe Trucking Chavez Trucking Williams Trucking	Oakland	UB	\$4,409,073.75					\$4,409,073.75	C				
		Oakland	UB		-\$752,760.00	\$752,760.00			\$752,760.00	H				
		Union City	UB						\$46,500.00	C				
		Union City	UB						\$31,802.00	C				
		Petaluma	UB						\$196,570.00	C				
		Oakland	CB		\$80,443.00	\$80,443.00	\$80,443.00	\$80,443.00	\$80,443.00	AA	\$80,443.00	\$80,443.00		
		Dixon	CB				\$560,008.75	\$560,008.75	\$560,008.75	H	\$560,008.75	\$560,008.75	\$560,008.75	
		Oakland	CB		\$202,203.50	\$202,203.50	\$202,203.50	\$202,203.50	\$202,203.50	AA	\$202,203.50	\$202,203.50		
<b>Project Totals</b>				\$4,409,073.75	\$1,035,406.50	\$1,035,406.50	\$842,655.25	\$842,655.25	\$6,279,361.00		\$842,655	\$842,655	\$560,009	
				70.22%	16.49%	16.49%	13.42%	13.42%	100%		13.42%	13.42%	8.92%	
										Ethnicity AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed				
<b>Legend</b>		UB = Uncertified Business CB = Certified Business OBE = Disadvantaged Business Enterprise WBE = Women Business Enterprise UDBE = Underutilized Disadvantaged Business Enterprise												

*Attachment D*

*Various Street Resurfacing and Bikeway Facilities  
(Project No. G427410)*

**Contractor Performance Evaluation**

Schedule L-2  
City of Oakland  
Public Works Agency  
**CONTRACTOR PERFORMANCE EVALUATION**

Project Number/Title: CITYWIDE STREET RESURFACING FY 2007-2008  
 Work Order Number (if applicable): \_\_\_\_\_  
 Contractor: GALLAGHER & BURK, INC.  
 Date of Notice to Proceed: JUNE 8, 2009  
 Date of Notice of Completion: JANUARY 3, 2011  
 Date of Notice of Final Completion: JANUARY 3, 2011  
 Contract Amount: \$ 1,672,405.66  
 Evaluator Name and Title: WAI WONG, CONSTRUCTION COORDINATOR

The City's Resident Engineer most familiar with the Contractor's performance must complete this evaluation and submit it to Manager, PWA Project Delivery Division, within 30 calendar days of the issuance of the Final Payment.

Whenever the Resident Engineer finds the Contractor is performing below Satisfactory for any category of the Evaluation, the Resident Engineer shall discuss the perceived performance shortfall at the periodic site meetings with the Contractor. An Interim Evaluation will be performed if at any time the Resident Engineer finds that the overall performance of a Contractor is Marginal or Unsatisfactory. An Interim Evaluation is required prior to issuance of a Final Evaluation Rating of Unsatisfactory. The Final Evaluation upon Final Completion of the project will supersede interim ratings.

The following list provides a basic set of evaluation criteria that will be applicable to all construction projects awarded by the City of Oakland that are greater than \$50,000. Narrative responses are required to support any evaluation criteria that are rated as Marginal or Unsatisfactory, and must be attached to this evaluation. If a narrative response is required, indicate before each narrative the number of the question for which the response is being provided. Any available supporting documentation to justify any Marginal or Unsatisfactory ratings must also be attached.

If a criterion is rated Marginal or Unsatisfactory and the rating is caused by the performance of a subcontractor, the narrative will note this. The narrative will also note the General Contractor's effort to improve the subcontractor's performance.

**ASSESSMENT GUIDELINES:**

Outstanding (3 points)	Performance among the best level of achievement the City has experienced.
Satisfactory (2 points)	Performance met contractual requirements.
Marginal (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
Unsatisfactory (0 points)	Performance did not meet contractual requirements. The contractual performance being assessed reflected serious problems for which corrective actions were ineffective.

**WORK PERFORMANCE**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
1	Did the Contractor perform all of the work with acceptable Quality and Workmanship?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1a	If problems arose, did the Contractor provide solutions/coordinate with the designers and work proactively with the City to minimize impacts? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Was the work performed by the Contractor accurate and complete? If "Marginal or Unsatisfactory", explain on the attachment and provide documentation. Complete (2a) and (2b) below.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2a	Were corrections requested? If "Yes", specify the date(s) and reason(s) for the correction(s). Provide documentation.			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
2b	If corrections were requested, did the Contractor make the corrections requested? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Was the Contractor responsive to City staff's comments and concerns regarding the work performed or the work product delivered? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Were there other significant issues related to "Work Performance"? If Yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Overall, how did the Contractor rate on work performance? The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**TIMELINESS**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)? If "Marginal or Unsatisfactory", explain on the attachment why the work was not completed according to schedule. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Was the Contractor required to provide a service in accordance with an established schedule (such as for security, maintenance, custodial, etc.)? If "No", or "N/A", go to Question #10. If "Yes", complete (9a) below.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
9a	Were the services provided within the days and times scheduled? If "Marginal or Unsatisfactory", explain on the attachment and specify the dates the Contractor failed to comply with this requirement (such as tardiness, failure to report, etc.). Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Did the Contractor provide timely baseline schedules and revisions to its construction schedule when changes occurred? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Did the Contractor furnish submittals in a timely manner to allow review by the City so as to not delay the work? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Were there other significant issues related to timeliness? If yes, explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
13	Overall, how did the Contractor rate on timeliness? The score for this category must be consistent with the responses to the questions given above regarding timeliness and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	



**FINANCIAL**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City?  Number of Claims: _____ Claim amounts: \$ _____ Settlement amount: \$ _____				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
18	Overall, how did the Contractor rate on financial issues? The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**COMMUNICATION**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
19	Was the Contractor responsive to the City's questions, requests for proposal, etc.? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Did the Contractor communicate with City staff clearly and in a timely manner regarding:					
20a	Notification of any significant issues that arose? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20b	Staffing issues (changes, replacements, additions, etc.)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20c	Periodic progress reports as required by the contract (both verbal and written)? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20d	Were there any billing disputes? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
21	Were there any other significant issues related to communication issues? Explain on the attachment. Provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
22	Overall, how did the Contractor rate on communication issues? The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**SAFETY**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
23	Did the Contractor's staff consistently wear personal protective equipment as appropriate? If "No", explain on the attachment.				Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
24	Did the Contractor follow City and OSHA safety standards? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
26	Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
27	Was the Contractor officially warned or cited for breach of U.S. Transportation Security Administration's standards or regulations? If "Yes", explain on the attachment.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
28	Overall, how did the Contractor rate on safety issues? The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

## OVERALL RATING

Based on the weighting factors below, calculate the Contractor's overall score using the scores from the four categories above.

1. Enter Overall score from Question 7	<u>2</u>	X 0.25 =	<u>0.5</u>
2. Enter Overall score from Question 13	<u>2</u>	X 0.25 =	<u>0.5</u>
3. Enter Overall score from Question 18	<u>2</u>	X 0.20 =	<u>0.4</u>
4. Enter Overall score from Question 22	<u>2</u>	X 0.15 =	<u>0.3</u>
5. Enter Overall score from Question 28	<u>2</u>	X 0.15 =	<u>0.3</u>

TOTAL SCORE (Sum of 1 through 5): 2.0

OVERALL RATING: Satisfactory

Outstanding: Greater than 2.5  
 Satisfactory: Greater than 1.5 & less than or equal to 2.5  
 Marginal: Between 1.0 & 1.5  
 Unsatisfactory: Less than 1.0

### PROCEDURE:

The Resident Engineer will prepare the Contractor Performance Evaluation and submit it to the Supervising Civil Engineer. The Supervising Civil Engineer will review the Contractor Performance Evaluation to ensure adequate documentation is included, the Resident Engineer has followed the process correctly, the Contractor Performance Evaluation has been prepared in a fair and unbiased manner, and the ratings assigned by the Resident Engineer are consistent with all other Resident Engineers using consistent performance expectations and similar rating scales.

The Resident Engineer will transmit a copy of the Contractor Performance Evaluation to the Contractor. Overall Ratings of Outstanding or Satisfactory are final and cannot be protested or appealed. If the Overall Rating is Marginal or Unsatisfactory, the Contractor will have 10 calendar days in which they may file a protest of the rating. The Public Works Agency Assistant Director, Design & Construction Services Department, will consider a Contractor's protest and render his/her determination of the validity of the Contractor's protest. If the Overall Rating is Marginal, the Assistant Director's determination will be final and not subject to further appeal. If the Overall Rating is Unsatisfactory and the protest is denied (in whole or in part) by the Assistant Director, the Contractor may appeal the Evaluation to the City Administrator, or his/her designee. The appeal must be filed within 14 calendar days of the Assistant Director's ruling on the protest. The City Administrator, or his/her designee, will hold a hearing with the Contractor within 21 calendar days of the filing of the appeal. The decision of the City Administrator regarding the appeal will be final.

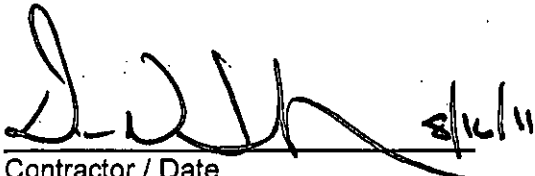
Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for any projects the Contractor bids on for a period of one year from the date of the Unsatisfactory Overall Rating. Two Unsatisfactory Overall Ratings within any five year period will result in the Contractor being categorized by the City Administrator as non-

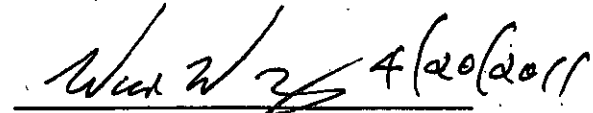
responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

Any Contractor that receives an Unsatisfactory Overall Rating is required to attend a meeting with the City Administrator, or his/her designee, prior to returning to bidding on City projects. The Contractor is required to demonstrate improvements made in areas deemed Unsatisfactory in prior City of Oakland contracts.

The Public Works Agency Contract Administration Section will retain the final evaluation and any response from the Contractor for a period of five years. The City shall treat the evaluation as confidential, to the extent permitted by law.

**COMMUNICATING THE EVALUATION:** *The Contractor's Performance Evaluation has been communicated to the Contractor. Signature does not signify consent or agreement.*

  
Contractor / Date

  
Resident Engineer / Date

  
Supervising Civil Engineer / Date

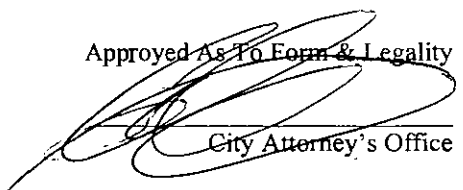
**ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:**

Use this sheet to provide any substantiating comments to support the ratings in the Performance Evaluation. Indicate before each narrative the number of the question for which the response is being provided. Attach additional sheets if necessary.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 NOV 14 PM 4:06

Approved As To Form & Legality

  
City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**RESOLUTION:**

**AWARDING A CONSTRUCTION CONTRACT TO GALLAGHER & BURK, INC. IN ACCORD WITH PLANS AND SPECIFICATIONS FOR VARIOUS STREET RESURFACING AND BIKEWAY FACILITIES NO. G427410 AND CONTRACTOR'S BID THEREFOR, FOR SIX MILLION TWO HUNDRED SEVENTY-NINE THREE HUNDRED SIXTY-ONE DOLLARS (\$6,279,361.00)**

**WHEREAS**, the City of Oakland's street infrastructure is considered a significant asset that impacts the quality of life for those who live and work in Oakland; and

**WHEREAS**, Funding for this street resurfacing project is from the Alameda County Transportation Commission's (ACTC) Block Grant Program, funded and programmed by the Metropolitan Transportation Commission (MTC) with federal Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ) funds; and

**WHEREAS**, this grant money will be moved to Fund 2163, a new fund established for appropriation and expenditures of ACTC grant, in accordance with published Fiscal Tracking and Reporting Requirements for STP and CMAQ funds; and

**WHEREAS**, on September 12, 2012 one bid was received by the Office of the City Clerk of the City of Oakland for Various Street Resurfacing and Bikeway Facilities (Project No. G427410), the Engineer's Estimate for the work is \$6,444,341.44 and Gallagher & Burk, Inc., is the lowest responsible, responsive bidder for the project, with a bid of \$6,279,361.00; and

**WHEREAS**, the grant requires contractors to meet federal Underutilized Disadvantaged Business Enterprise (UDBE) program requirements and Contractor meets these requirements; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary repairs and the City Council finds and determines that the performance of this contract is the public interest because of the economy; and

**WHEREAS**, the City Council has determined that this contract is professional, scientific or technical and temporary in nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

**WHEREAS**, the City of Oakland's streets infrastructure is considered a significant asset that impacts the quality of life for those who live and work in Oakland; and

**WHEREAS**, the City Council recently adopted a 5-Year Paving Plan for the FY07-12, representing the optimized distribution of paving funds as analyzed by the City's Pavement Management Program; and

**WHEREAS**, only Federal Aid Urban (FAU) eligible streets may be selected for this project; and

**WHEREAS**, the project locations associated with this project are selected from the City's 5-Year Paving Plan for FY 07-12 and are FAU eligible; and

**WHEREAS**, the Department of Transportation has determined the project documents and plans are eligible for federal funding; and

**WHEREAS**, the City of Oakland coordinates and screens all proposed streets for conflicts with sewer, storm drainage, gas, water, electrical, cable, and fiber optic replacement projects to insure that all underground rehabilitation work occurs prior to scheduled street rehabilitation projects; now therefore be it

**WHEREAS**, there are sufficient Metropolitan Transportation Commission (MTC) federal Surface Transportation Program (STP) Fund (2163); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427410; \$3,067,000.00; and

**WHEREAS**, there are sufficient Metropolitan Transportation Commission (MTC) Congestion Mitigation and Air Quality Improvement (CMAQ) Fund (2163); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427410; \$425,000.00; and

**WHEREAS**, there are sufficient Local Match Fund Measure B Local Streets and Roads Fund (2211); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. G427420; \$400,000.00; and

**WHEREAS**, there are sufficient Local Match Fund Measure B Bicycle and Pedestrian Fund (2212); Capital Project-Engineering and Design (92246), Street Construction Account (57411); Project No. G427430; \$56,400.00; and

**WHEREAS**, there are sufficient California Gas Tax (2231); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C427810; \$2,330,961.00; and be it

**FURTHER RESOLVED:** That the contract for the Various Street Resurfacing and Bikeway Facilities Project No. G427410 is awarded to Gallagher & Burk, Inc., the lowest responsible, responsive bidder, in accordance with the plans and specifications for the Project and contractor's bid therefor, dated September 12, 2012, in the amount of Six Million Two Hundred Seventy-Nine Three Hundred Sixty-One Dollars (\$6,279,361.00) and be it

**FURTHER RESOLVED:** That the amount of the bond for faithful performance 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, shall be 100% of the contract price and are hereby approved; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared by the Assistant Director of the Public Works Agency for this project, and reviewed and adopted by the City Engineer, are hereby approved; and be it



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

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

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and  
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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