

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

2006 SEP 14 AM 9:56

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Public Works Agency  
DATE: September 26, 2006

**RE: Resolution Waiving The Competitive Bid Process And Authorizing The City Administrator To Negotiate New Prices And Increase The Construction Contract With McGuire And Hester For The Resurfacing Of Certain Streets In The City Of Oakland For Fiscal Year 2003-2004 (Project No. C234930) By An Amount Not-To-Exceed \$2,000,000.00 For A Total Contract Amount Not-To-Exceed \$7,100,000.00.**

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**SUMMARY**

A resolution has been prepared waiving the competitive bid process and authorizing the City Administrator to negotiate new prices and increase the construction contract limit by \$2,000,000.00 on the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (C239430). The total current contract not-to-exceed amount approved by City Council is \$5,100,000.00. All contract work previously approved by City Council for this project has been completed. This increase in the contract amount will allow streets in the worst condition to be resurfaced as part of this contract, as soon as possible. Worst streets are streets having a Pavement Condition Index (PCI) of 49 or less. The additional funding will be equally distributed to each Council District. Staff will provide a preliminary draft list of streets to each Councilmember for their review and input. A final list of streets will be developed based on rehabilitation cost, available funding allocated to each Council District, and weather permitting.

The City of Oakland desires to negotiate new prices and issue a change order to the existing contract for the additional work rather than competitively bid in order to complete a significant amount of work (approximately \$800,000.00) before the winter rainy season and competitively bidding or opening negotiations to other contractor will substantially delay the work.

During the fiscal year 2006-07 mid-cycle budget review, the City Council approved \$2,000,000.00 of surplus General Purpose Fund (1010) revenue for resurfacing of streets in the worst condition. With the approval of this resolution, the contract amount will be increased by \$2,000,000.00 for a revised total contract amount not-to-exceed \$7,100,000.00.

It is recommended that the resolution be approved.

Item: \_\_\_\_\_  
Public Works Committee  
September 26, 2006

## **FISCAL IMPACT**

This project was originally funded by an Alameda County Transportation Improvement Act (ACTIA) grant (ACTIA Project No. 16). The total grant funding available for this project is \$5,278,000.00. Project grant expenditures to date are \$5,079,371.00 and \$198,629.00 of ACTIA grant funds are still available. Additional funding is available in the fiscal year 2006-07 budget within the General Purpose Fund (1010), Heavy Paving Organization (92480), Contract Contingencies (54011), City Council Priority FY06-07 Street Resurfacing –1010 Project (C293110), Streets & Sidewalks Management & Development Program (IN04) for this \$2,000,000.00 increase in the contract amount.

The remaining \$198,629.00 of available ACTIA grant funds has an expenditure and request for reimbursement deadline of June 30, 2007.

## **BACKGROUND**

Resolution No. 78594 C.M.S. awarded this project to McGuire and Hester on June 1, 2004 in the amount of \$3,928,797.40; the Engineer's Estimate for this project is \$4,439,298.00. McGuire and Hester was the lowest bidder and met the project Local / Small Local Business ACTIA goals. The project includes resurfacing of streets throughout the City of Oakland. As part of the resurfacing, all curb and gutter, non-ADA compliant curb ramps, and tree-damaged sidewalks on rehabilitated streets are also repaired.

McGuire and Hester, as the prime and all subcontractors under this project have been certified both by the City of Oakland and ACTIA as Local or Small Local Businesses. Therefore, 100% of this project is local.

Resolution No. 78594 C.M.S. authorizes the City Administrator to execute any amendments, extensions or modifications to the original contract within the limitations of the project specifications. The City of Oakland's Project Specifications, Section 3-2, allow contract increases up to a limit of 15 percent of the original contract price for construction contracts between \$2 Million and \$5 Million. This authorized 15 percent change order limit allowed change order increases on the original contract of \$589,319.61, for a total contract amount of \$4,518,117.01, before having to return to City Council.

On June 7, 2005 the City Council passed Resolution No. 79266 C.M.S. authorizing the City Administrator to increase the construction contract with McGuire and Hester by \$581,882.99 for a total contract amount of \$5,100,000.00. This increase was recommended by staff to stay on schedule for construction, to fully expend available ACTIA grant funds and meet required grant

fund expenditure deadlines; and to take advantage of competitive prices from the original bid to resurface additional streets.

The additional \$2 Million appropriated during fiscal year 2006-07 mid cycle budget review will allow rehabilitation of streets that otherwise would not be eligible using federal or state grant funds. Federal and state grant funds require expenditures be performed on streets that are in optimal condition (Good and Very Good) for resurfacing and preventive maintenance.

### **KEY ISSUES AND IMPACT**

Due to cost increases since award of original base contract in June 2004, rehabilitation of the worst streets will be performed as change order work using revised negotiated unit bid prices to account for escalation in material and labor costs.

Negotiations of revised unit bid prices will be based on recent Caltrans canvass of bids. This will provide a baseline of competitive prices reflecting best market prices currently available.

Streets in Very Poor condition (i.e. Poor streets have a Pavement Condition Index (PCI) between 25 and 49; Very Poor streets have a PCI less than 25) can cost five times or more to rehabilitate than streets in Good or Very Good condition (i.e. Good or Very Good streets have a PCI value between 50 and 69 and 70 to 89 respectively), that require preventive maintenance treatments, such as slurry seal or crack sealing treatment. The additional \$2 Million mid-cycle appropriation allows the City to address some of these worst streets, which otherwise would be passed over to focus annual rehabilitation funds on preventive maintenance of streets in moderate condition, a requirement of federal and state resurfacing grants.

In addition to this project, the City will be bidding the next CIP fiscal year 2006-07 street resurfacing contract in fall 2006. Construction under that contract is anticipated to begin in spring 2007.

### **PROJECT DESCRIPTION**

Approximately 53 lane miles have been completed as part of this contract to date. In addition to the street resurfacing, the damaged curb and gutter, non-ADA compliant curb ramps and tree-damaged sidewalks will be repaired. The additional funding will be equally distributed to each Council District. PWA will submit a preliminary draft list of worst streets to each Councilmember for their review and input. Worst streets are streets having a PCI of 49 or less. A final list of streets will be developed based on rehabilitation cost, available funding allocated to each Council District, and weather permitting.

## **SUSTAINABLE OPPORTUNITIES**

Economic: Project work will generate business tax, sales tax and other revenues for the City.

Environmental: New asphalt pavement contains as much as 15% recycled asphalt. This project has used 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 have been used on this project to date.

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**

This project enhances the accessibility for motorists, bicyclists, and pedestrians of all ages and abilities. The repaired streets, sidewalks, and ADA compliant ramps will reduce tripping hazard and improve access for seniors and persons with disabilities.


## **RECOMMENDATION AND RATIONALE**

It is recommended that this resolution waiving the competitive bid process and authorizing the City Administrator to negotiate new prices and increase the existing contract with McGuire and Hester be approved in order to fully expend available funds made available during the fiscal year 06-07 mid cycle budget review for rehabilitation of worst streets in the most efficient manner before start of winter rainy season.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that Council approve the resolution waiving the competitive bid process and authorizing the City Administrator to negotiate new prices and increase the construction contract with McGuire and Hester for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930) by \$2,000,000.00 for a total contract amount not-to-exceed \$7,100,000.00.

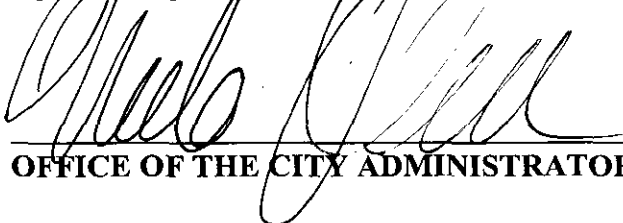
Respectfully submitted,

  
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**RAUL GODINEZ II, P.E.**  
Director, Public Works Agency

Reviewed by:  
Michael Neary, P.E., Assistant Director  
Public Works Agency  
Design and Construction Services Department

Prepared by:  
Yader Bermudez, P.E., Principal Civil Engineer  
Engineering Design and ROW Management

APPROVED AND FORWARDED TO THE  
PUBLIC WORKS COMMITTEE:

  
\_\_\_\_\_  
**OFFICE OF THE CITY ADMINISTRATOR**

Item: \_\_\_\_\_  
Public Works Committee  
September 26, 2006

# OAKLAND CITY COUNCIL

*[Signature]*  
City Attorney

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

2006 SEP 14 AM 9:56  
CITY CLERK

**RESOLUTION WAIVING THE COMPETITIVE BID PROCESS AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE NEW PRICES AND INCREASE THE CONSTRUCTION CONTRACT WITH MCGUIRE AND HESTER FOR THE RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NO. C234930) BY AN AMOUNT NOT-TO-EXCEED \$2,000,000.00 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$7,100,000.00**

**WHEREAS**, on June 1, 2004, the City Council approved Resolution No. 78594 C.M.S. awarding the construction contract for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 to McGuire and Hester in the amount of \$3,928,797.40; and

**WHEREAS**, on June 7, 2005, the City Council passed Resolution No. 79266 C.M.S. authorizing the City Administrator to increase the construction contract with McGuire and Hester by \$581,882.99 for a total contract amount of \$5,100,000.00 ; and

**WHEREAS**, during the fiscal year 2005-07 mid-cycle budget review, the City Council approved \$2,000,000.00 of surplus General Purpose Fund (1010) revenue for resurfacing of streets in worst condition; and

**WHEREAS**, the City of Oakland desires to negotiate new prices and issue a change order to the existing contract for the additional work rather than competitively bid in order to complete a significant amount of work (approximately \$800,000.00) before the winter rainy season and competitively bidding or opening negotiations to other contractor will substantially delay the work; and

**WHEREAS**, funding is available in the fiscal year 2006-07 budget within the General Purpose Fund (1010), Heavy Paving Organization (92480), Contract Contingencies (54011), City Council Priority FY06-07 Street Resurfacing –1010 Project (C293110), Streets & Sidewalks Management & Development Program (IN04); and

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

**WHEREAS**, an increase to the contract amount will allow the City to complete the rehabilitation of worst streets as part of this project on schedule and to meet grant funding deadlines; 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 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 City Council hereby finds and determines that is in the City’s best interests to waive competitive bidding for the additional street paving work described above and authorizes the City Administrator or her designee the authority to negotiate new prices and increase the construction contract with McGuire and Hester for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-3004 (Project Number C234930) by an amount not-to-exceed two million dollars (\$2,000,000.00), for a total contract amount not-to-exceed seven million one hundred thousand dollars (\$7,100,000.00); and be it

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

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

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

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