

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

2011 MAY 12 PM 9: 53

TO: Office of the City Administrator  
ATTN: P. Lamont Ewell  
FROM: Public Works Agency  
DATE: May 24, 2011

RE: 1) Resolution Awarding A Construction Contract For Citywide Street Rehabilitation And Reconstruction Phase I (Project No. C369620) To Gallagher & Burk, Inc. For Three Million Seven Hundred Twenty-Eight Thousand Four Hundred Three Dollars (\$3,728,403.00), And  
2) Waiving Advertising And Bidding Requirements And Authorizing The City Administrator Or His Designee To Award Additional Work Up To Seven Hundred Fifty Thousand Dollars (\$750,000.00) To The Contract, For A Total Contract Authorization Of Four Million Four Hundred Seventy-Eight Thousand Four Hundred Three Dollars (\$4,478,403.00).

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**SUMMARY**

A resolution has been prepared 1) awarding a construction contract in the amount of \$3,728,403.00 to Gallagher & Burk, Inc. for Citywide Street Rehabilitation and Reconstruction Phase I (Project C369620) and, 2) waiving advertising and bidding requirements and authorizing the City Administrator or his designee to award additional work up to seven hundred fifty thousand dollars (\$750,000.00) to the contract, for a total contract authorization of four million four hundred seventy-eight thousand four hundred three dollars (\$4,478,403.00). This action will allow the City to take advantage of the competitive prices submitted in response to the project bid solicitation.

The work to be completed under this project is part of the City's street resurfacing program and includes streets from the City's 5-Year Paving Plan and "worst streets", adopted in November 2007. The work is located throughout the City and the streets that will be resurfaced as part of this project are listed in *Attachment A*.

**FISCAL IMPACT**

Approval of this resolution will authorize the City Administrator to award a construction contract to Gallagher & Burk, Inc. in the amount of \$3,728,403.00. Funding for this street resurfacing project is from the Proposition 1B and Proposition 42 funds and is available in

Item: \_\_\_\_\_  
Public Works Committee  
May 24, 2011

- Proposition 1B California Transportation Bond (2165); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C369620; \$2,600,000.00;
- Proposition 42 California Transportation Bond (2131); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C369710; \$1,128,403.00.00.

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.

## BACKGROUND

On April 7, 2011, the City Clerk received three bids for the project in the amounts of \$3,728,403.00, \$4,086,688.80 and \$4,120,481.00 as shown in *Attachment B*. The lowest bidder, Gallagher and Burk, Inc. has been deemed responsive and responsible, and therefore is recommended for the award.

The Engineer's estimate for the construction work is \$5,133,212.00. Staff has reviewed the bids and has determined they are reflective of the current construction bidding environment. The Purchasing Ordinance allows Council to waive competitive bidding if it is found to be in the best interests of the City to do so. In this case, increasing the contract amount will allow more paving work to be completed within the project budget, using the prices bid competitively for the original work. Therefore, the resolution increases the contract up to seven hundred fifty thousand dollars (\$750,000.00), and authorizes the City Administrator, or his designee, to add additional work to the contract.

The streets selected for this contract are from the City's 5-Year Paving Plan and "worst streets", adopted in November 2007. The resolution recommended that eighty percent (80%) of available resurfacing funds be dedicated to resurfacing those streets identified by the City's Pavement Management Program, and that the remaining twenty percent (20%) be dedicated to rehabilitating selected "worst streets". Consideration was also given to known planned utility projects, such as sewer rehabilitation, gas, and water replacement, which would impact the planned street rehabilitation. The list of proposed streets for this contract is included as *Attachment A*.

Under the proposed contract with Gallagher and Burk, Inc., the Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE) participation will be 93.78%, which exceeds the City's 20% LBE/SLBE requirement. The contractor also shows a participation of 100% for trucking, which exceeds the 20% Local Trucking requirement. The contractor is required to have 50% of the work hours performed by Oakland residents and 50% of all new hires are to be Oakland residents. The LBE/SLBE information has been verified by the Social Equity Division of the Department of Contracting and Purchasing and is shown in *Attachment C*. Staff has

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

### KEY ISSUES AND IMPACTS

This project is part of the City-wide 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 June 2011 and should be completed by November 2012. The contract specifies \$1,000.00 in liquidated damages per calendar day dependent on specific project locations. The project schedule is shown in *Attachment B*. A significant amount of additional work can be completed within the project budget using the unit prices competitively bid on the open market in the initial bid by increasing the contract amount by \$750,000.00.

### PROJECT DESCRIPTION

In general, the proposed work consists of resurfacing or slurry sealing approximately 6.81 centerline miles of City streets, as shown in *Attachment A*. The project includes: Asphalt Concrete (AC) base repair; AC mill and overlay; full pavement reconstruction; 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.

### EVALUATION OF PAST PERFORMANCE

The Contractor Performance Evaluation for Gallagher & Burk, Inc. from a previously completed project 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 a Full Depth Rehabilitation (FDR) paving method for reconstruction of pavement in which the pavement base will be recycled. Less material and less trucking will be used as a result, thereby helping to reduce air pollution and traffic congestion.

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.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

Street resurfacing eliminates poor pavement conditions and provides a uniform travel surface for all roadway users, including pedestrians using crosswalks, transit vehicles, bicyclists, and people with mobility impairments. During construction, the Contractor will be required to provide safe and accessible travel through the construction area. Construction of 132 curb ramps to current Americans With Disabilities Act (ADA) standards in this project will improve pedestrian access of public streets.


**RECOMMENDATION AND RATIONALE**

It is recommended that the construction contract be awarded to Gallagher & Burk, Inc., the responsive, responsible bidder, in the amount of \$3,728,403.00 for Citywide Street Rehabilitation and Reconstruction Phase I (Project C369620), waiving advertising and bidding requirements and authorizing the City Administrator or his designee to award additional work up to seven hundred fifty thousand dollars (\$750,000.00) to the contract, for a total contract authorization of four million four hundred seventy-eight thousand four hundred three dollars (\$4,478,403.00). Gallagher & Burk, Inc. has met the LBE/SLBE requirements, and there are sufficient funds in the project account. Increasing the change order limitation will allow full use of the available funding at competitive prices.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the resolution.

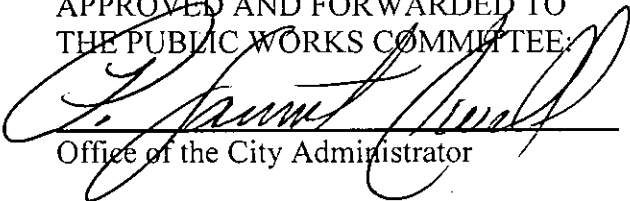
Respectfully submitted,

  
\_\_\_\_\_  
Vitaly B. Trdyan, P.E., Director  
Public Works Agency

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

Prepared by:  
Allen Law, P.E., Supervising Civil Engineer  
Engineering Design and Right of Way Management Division

APPROVED AND FORWARDED TO  
THE PUBLIC WORKS COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator

**Attachment A**

***Citywide Street Rehabilitation And Reconstruction Phase I  
(Project No. C369620)***

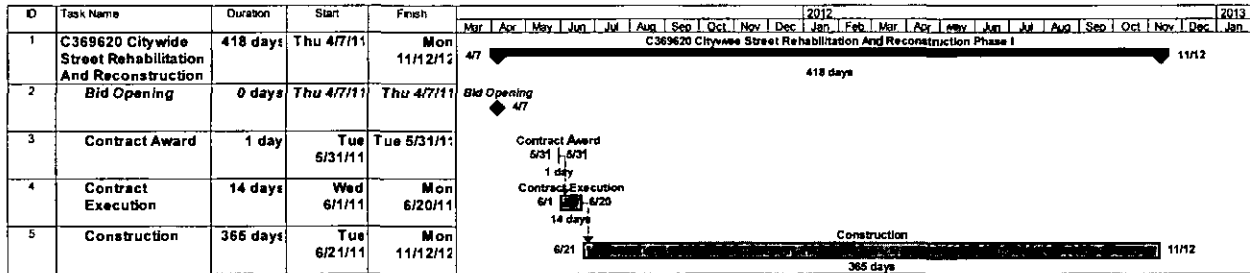
**Project Location List**

<b>Street Name</b>	<b>Begin Location</b>	<b>End Location</b>	<b>Length in Miles</b>
12th St	Broadway	Franklin St	0.06
12th St	Webster	Harrison	0.07
14th St	Mandela Pkwy	Brush St	0.71
26th St	Mandela Pkwy	Campbell St	0.02
33rd St	Market St	M. L. King Way	0.28
42nd Ave	Foothill Blvd	600' West of International Blvd	0.38
Brookdale Ave	High St	Monticello Ave	0.39
E.33rd Street	Elliot St	13th Ave	0.11
Greenwood Rd	Norwood Ave	Park Blvd	0.40
Jackson Street	7th Street	9th Street	0.09
Lakeshore	Mac Arthur Blvd	Lake Park Ave	0.05
Lincoln Ave	Palmetto St	Monterey Blvd	1.27
Moraga Ave	Mountain Blvd	Thornhill Dr	0.56
Mountain Blvd	Moraga Ave	Snake Rd	1.32
Mountain Blvd	Snake Rd	Ascot Dr	0.53
Park Blvd	Monterey Blvd	Mountain Blvd	0.03
School St	Fruitvale Ave	North End	0.08
Telegraph Ave	51st St	Aileen St	0.30
Tiffin	Lincoln Ave	Whittle	0.08
Vernon St	Bay Place	Vernon Terrace	0.07
		<b>Total</b>	<b>6.81</b>

**Attachment B**

**Citywide Street Rehabilitation And Reconstruction Phase I  
(Project No. C369620)**

**Project Construction Schedule**



**List of Bidders**

Company	Location	Bid Amount
Gallagher & Burk, Inc.	Oakland	\$3,728,403.00
Bay Cities Paving & Grading, Inc.	Concord	\$4,086,688.80
Ghilotti Construction Co.	Santa Rosa	\$4,120,481.00

*Attachment C*

*Citywide Street Rehabilitation And Reconstruction Phase I  
(Project No. C369620)*

**Department of Contracting and Purchasing  
Compliance Evaluation**



# Memo

Department of Contracting and Purchasing  
Social Equity Division



To: Jimmy Mach, Civil Engineer  
 From: Vivian Inman, Contract Compliance Officer  
 Through: Deborah Barnes, Director, DCP *Deborah Barnes*  
 Shelley Darensburg, Sr. Contract Compliance Officer  
 CC: Gwen McCormick, Contract Administration Supervisor  
 Date: April 27, 2011  
 Re: C369620 – Citywide Street Rehabilitation and Reconstruction Phase I

The Department of Contracting and Purchasing (DCP); Division of Social Equity, reviewed three (3) bids for the above referenced project. Below is the outcome of the compliance evaluation for the minimum 20% Local and Small Local Business Enterprise (L/SLBE) participation requirement, a preliminary review for compliance with the Equal Benefits Ordinance (EBO), and a brief overview of the lowest responsible bidder's compliance with the 50% Local Employment Program (LEP) and the 15% Oakland Apprenticeship Program on the bidder's most recently completed City of Oakland project.

Below are the results of our findings:

Responsive to L/SLBE and/or EBO Policies		Proposed Participation				Earned Credits and Discounts			Banked Credits Eligibility	EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount		
Gallagher & Burk, Inc.	\$3,728,403.00	93.78%	74.73%	19.04%	100%	38.08%	3%	\$3,616,550.91	0%	Y
Bay Cities Paving & Grading	\$4,086,688.80	55.95%	32.19%	23.76%	100%	47.52%	4%	\$3,923,220.00	0%	Y

**Comments:** As noted above, Gallagher & Burk, Inc., and Bay Cities Paving & Grading met the minimum 20% L/SLBE participation requirement. Bay Cities Paving & Grading is EBO compliant.

Non-Responsive to L/SLBE and/or EBO Policies		Proposed Participation				Earned Credits and Discounts			Banked Credits Eligibility	EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	L/SLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount		
Ghilotti Construction Company	\$4,120,481	20.14%	0%	20.14%	100%	20.14%	2%	\$4,038,071.00	0%	N

**Comments:** Ghilotti Construction Company failed to meet the 20% L/SLBE trucking requirement. Ghilotti Construction had a clerical error per the Contract Administration division. Therefore, both firms are deemed non-responsive.



**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 on their most recently completed City of Oakland project.

Contractor Name: Gallagher & Burk, Inc.  
 Project Name:  
 Project No:

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

Was the 50% LEP Goal achieved?	NA	If no, shortfall hours?	NA
Were all shortfalls satisfied?	NA	If no, penalty amount	\$0

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	NA	If no, shortfall hours?	NA
Were shortfalls satisfied?	NA	If no, penalty amount?	\$0

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	Core Workforce Hours Deducted	50% Local Employment Program (LEP)						15% Apprenticeship Program				
		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
30	0	0%	0	0%	0	0	0	0%	0	0%	0	0

Comments: All projects completed by Gallagher & Burk, Inc., were Federally funded projects. Therefore, there was no Local Employment or 15% Apprenticeship requirements on the projects.

Should you have any questions, you may contact Vivian Inman at (510) 238-6261.



DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT COMPLIANCE EVALUATION FOR :

Project No. C369620

RE: Citywide Street Rehabilitation and Reconstruction Phase 1

CONTRACTOR: Gallagher & Burk, Inc.

<u>Engineer's Estimate:</u>	<u>Contractors' Bid Amount</u>	<u>Over/Under Engineer's Estimate</u>
\$5,133,212.00	\$3,728,403.00	\$1,404,809
<u>Discounted Bid Amount:</u>	<u>Ami. of Bid Discount</u>	<u>Discount Points:</u>
\$3,616,550.91	\$111,852.09	3%
1. Did the 20% local/small local requirement apply:		<u>YES</u>
2. Did the contractor meet the 20% requirement		<u>YES</u>
a) % of LBE participation	<u>74.73%</u>	
b) % of SLBE participation	<u>19.04%</u>	
3. Did the contractor meet the Trucking requirement?		<u>YES</u>
a) Total L/SLBE trucking participation	<u>100%</u>	
4. Did the contractor receive bid discount points?		<u>YES</u>
(if yes, list the points received)	<u>3%</u>	
5. Additional Comments.		
6. Date evaluation completed and returned to Contract Admin./Initiating Dept.		

4/27/2011  
\_\_\_\_\_  
Date

Reviewing Officer:

Date: 4/27/2011

Approved By

Date: 4/27/2011

## LBE/SLBE Participation Bidder 1

Project Name: **Citywide Street Rehabilitation and Reconstruction Phase 1**

Project No. 0369620		Engineer's Estimate 5,433,212			Under/Over Engineers Estimate: 1,404,809								
Discipline	Prime & Subs	Location	CerL Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn.	MBE	WBE	
PRIME	Gallagher & Durk	Oakland	CB	2,786,403		2,786,403.00			2,786,403.00	C			
Trucking	Williams Trucking	Oakland	CB		275,000.00	275,000.00	275,000.00	275,000.00	275,000.00	AA	275,000.00		
Cement	Western Stabilization	Dixon	UB						72,000.00	C			
Treatment													
Striping	Striping Graphics	Cotati	UB						148,000.00	C			
Adjust Iron	Riley's Striping	Union City	UB						12,000.00	H	12,000.00		
Minor Concrete	Rosas Brothers Construction	Oakland	CB		435,000.00	435,000.00			435,000.00	H	435,000.00		
<b>Project Totals</b>				\$2,786,403.00	\$710,000.00	\$3,496,403.00	\$275,000.00	\$275,000.00	\$3,728,403.00		722,000.00	\$0	
				74.73%	19.04%	93.78%	100%	100%	100%		19.36%		
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				LBE 10%	SLBE 10%	TRUCKING 20%	LBE/SLBE 20%		<b>Ethnicity</b> AA = African American A = Asian C = Caucasian AP = Asian Pacific H = Hispanic NA = Native American O = Other NL = Not Listed				
<b>Legend</b>				LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise		UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise							



DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT COMPLIANCE EVALUATION FOR :

Project No. C369620

RE: Citywide Street Rehabilitation and Reconstruction Phase 1

CONTRACTOR:

Bay Cities Paving & Grading

<u>Engineer's Estimate:</u> \$5,133,212.00	<u>Contractors' Bid Amount</u> \$4,086,688.80	<u>Over/Under Engineer's Estimate</u> \$1,046,523
<u>Discounted Bid Amount:</u> \$3,923,221.25	<u>Amt. of Bid Discount</u> \$163,467.55	<u>Discount Points:</u> 4%
1. Did the 20% local/small local requirement apply:		<u>YES</u>
2. Did the contractor meet the 20% requirement		<u>YES</u>
a) % of LBE participation	<u>32.19%</u>	
b) % of SLBE participation	<u>23.76%</u>	
3. Did the contractor meet the Trucking requirement?		<u>YES</u>
a) Total L/SLBE trucking participation	<u>100%</u>	
4. Did the contractor receive bid discount points?		<u>YES</u>
(if yes, list the points received)	<u>4%</u>	
5. Additional Comments.		

6. Date evaluation completed and returned to Contract Admin./initiating Dept.

4/25/2011

Date

Reviewing Officer:

*Vivian [Signature]*

Date: 4/25/2011

Approved By

*Shelley [Signature]*

Date: 4/25/2011

## LBE/SLBE Participation Bidder 2

Project Name: **Citywide Street Rehabilitation and Reconstruction Phase 1**

Project No.: C369620		Engineer's Estimate: 1,200,000			Undor/Over Engineers Estimate: 2,886,689								
Discipline	Prime & Subs	Location	Cert Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars				
										Ethn	MBE	WBE	
<b>PRIME</b>	Bay Cities Paving & Grading	Oakland	CB	1,315,523					1,315,323.50	H	1,315,525.50		
Concrete	AJW Ccnstrctbn	Oakland	CB		484,481.30	484,481.30			484,481.30	H	484,481.30		
striping	Chrip Co.	Fremont	UB						164,674.00	C			
Trucking	CJC Trucking	Oakland	CB		486,462.00	486,462.00	486,462.00	486,462.00	486,462.00	AA	486,462.00		
Cement Treatment	Griffin Soil	Pleasantbn	UB						93,780.00	C			
AC	Vulcan Mtly	Pleasantori	UB						1,541,968.00	C			
<b>Project Totals</b>				\$1,315,522.70	\$970,943.30	\$970,943.30	\$486,462.00	\$486,462.00	\$4,086,688.80		\$2,286,468.80	\$0	
				32.19%	23.76%	55.95%	100%	100%	100%		55.95%		
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				LBE: 10%	SLBE: 10%	TRUCKING: 20%	LBE/SLBE: 20%		<b>Ethnicity</b> AA = African American A = Asian C = Caucasian AP = Asian Pacific H = Hispanic NA = Native American O = Other NL = Not Listed				
<b>Legend</b>				LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise		UB = Uncertifiad Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise							



DEPARTMENT OF CONTRACTING AND PURCHASING

Social Equity Division

PROJECT COMPLIANCE EVALUATION FOR :

Project No. C369620

RE: Citywide Street Rehabilitation and Reconstruction Phase 1

CONTRACTOR: Ghilotti Construction Company

<u>Engineer's Estimate:</u>	<u>Contractors' Bid Amount</u>	<u>Over/Under Engineer's Estimate</u>
\$5,133,212.00	\$4,120,485.00	\$1,012,727
<u>Discounted Bid Amount:</u>	<u>Amt. of Bid Discount</u>	<u>Discount Points:</u>
\$4,038,075.30	\$82,409.70	2%
1. Did the 20% local/small local requirement apply:		<u>YES</u>
2. Did the contractor meet the 20% requirement		<u>YES</u>
a) % of LBE participation	<u>0.00%</u>	
b) % of SLBE participation	<u>20.14%</u>	
3. Did the contractor meet the Trucking requirement?		<u>YES</u>
a) Total L/SLBE trucking participation	<u>100%</u>	
4. Did the contractor receive bid discount points?		<u>YES</u>
(if yes, list the points received)	<u>2%</u>	
5. Additional Comments.		
Per Contract Administration firm had a clerical error. Therefore the firm is deemed non responsive.		

6. Date evaluation completed and returned to Contract Admin./Initiating Dept.

4/25/2011

Date

Reviewing Officer:

Vivian Janna

Date: 4/25/2011

Approved By

Shelley Darenburg

Date: 4/25/2011

## LBE/SLBE Participation Bidder 3

Project Name: Citywide Street Rehabilitation and Reconstruction Phase 1

Project No.: C369620		Engineer's Estimate: 1,200,000				Under/Over Engineers Estimate: 1,199,999						
Discipline	Prime & Subs	Location	Cert Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn	MBE	WBE
PRIME	Ghiotti Construction Company	Santa Rosa	UB						3,034,024.10	C		
Striping	Striping Graphics	Cotati	UB						156,575.90	C		
Adjust Iron	El Camino paving	Sunnyvale	UB						26,600.00	C		
Jack Oil	Kent's Oil Service	Stockton	UB						73,285.00	C		
Trucking	CJC Trucking	Oakland	CB		412,000.00	412,000.00	412,000.00	412,000.00	412,000.00	AA	\$412,000.00	
Concrete	Rosas Brothers Construction	Oakland	CB		418,000.00	418,000.00			418,000.00	H	\$418,000.00	
<b>Project Totals</b>				\$0.00	\$830,000.00	\$830,000.00	\$412,000.00	\$412,000.00	\$4,120,485.00		\$830,000	\$0
				0.00%	20.14%	20.14%	100%	100%	100%		20.14%	
<b>Requirements:</b> The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements.				LBE:10%	SLBE:10%	TRUCKING:20%	LBE/SLBE:20%		<b>Ethnicity</b> AA = African American A = Asian C = Caucasian AP = Asian Pacific H = Hispanic NA = Native American O = Other NL = Not Listed			
<b>Legend</b>				LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise				UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise				



***Attachment D***

***Citywide Street Rehabilitation And Reconstruction Phase I  
(Project No. C369620)***

***Contractor Performance Evaluation***

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

Project Number/Title: PARK AND STREET IMPROVEMENTS OF EL EMBARCADERO AND LAKESHORE AVENUE

Work Order Number (if applicable): \_\_\_\_\_

Contractor: GALLAGHER AND BURK

Date of Notice to Proceed: 10/20/2008

Date of Notice of Completion: 9/28/2010

Date of Notice of Final Completion: \_\_\_\_\_

Contract Amount: \$ 4,449,370.00

Evaluator Name and Title: JING WONG, CIVIL ENGINEER

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.

**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 checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input 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 checked="" 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"/>	

**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"/>	

## 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: 2.0

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-

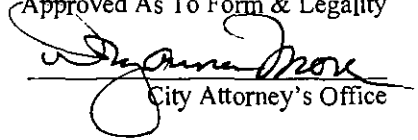
**ATTACHMENT TO CONTRACTOR PERFORMANCE EVALUATION:**

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

MAY 12 PM 9:54

Approved As To Form & Legality

  
City Attorney's Office

# OAKLAND CITY COUNCIL

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

## RESOLUTION:

- 1) AWARDING A CONSTRUCTION CONTRACT, IN ACCORD WITH PLANS AND SPECIFICATIONS FOR CITYWIDE STREET REHABILITATION AND RECONSTRUCTION PHASE I PROJECT NO. C369620 AND CONTRACTOR'S BID THEREFOR, TO GALLAGHER & BURK, INC. IN THE AMOUNT OF THREE MILLION SEVEN HUNDRED TWENTY-EIGHT THOUSAND FOUR HUNDRED THREE DOLLARS (\$3,728,403.00), AND
  
- 2) WAIVING ADVERTISING AND BIDDING REQUIREMENTS AND AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE TO AWARD ADDITIONAL WORK UP TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) TO THE CONTRACT, FOR A TOTAL CONTRACT AUTHORIZATION OF FOUR MILLION FOUR HUNDRED SEVENTY-EIGHT THOUSAND FOUR HUNDRED THREE DOLLARS (\$4,478.403.00)

**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**, the Proposition 1B bond revenues must be invested in improving local streets, roads, and/or other priority local transportation projects; and

**WHEREAS**, eligible projects for Proposition 1B are those that reduce congestion, increase traffic safety, or rehabilitate and maintain local roads; and

**WHEREAS**, the City Council adopted Resolution No. 81039 C.M.S. establishing a 5-Year Paving Plan, representing the optimized distribution of paving funds as analyzed by the City's Pavement Management Program; and

**WHEREAS**, the projects associated with the 5-Year Paving Plan are eligible for the Proposition 1B Funds; and

**WHEREAS**, the project locations associated with this project are selected from the City's 5-Year Paving Plan; and

**WHEREAS**, the City Council adopted the target of eighty percent (80%) of available street rehabilitation funds each year be dedicated to rehabilitating streets from the 5-Year Paving Plan, and that the remaining twenty percent (20%) of available funds will be dedicated to rehabilitation selected "worst streets"; 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; and

**WHEREAS**, there are sufficient Proposition IB funds in the project budget for the work and funding for this work is available in the following project account: (2165); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C369620; \$2,600,000.00; and

**WHEREAS**, there are sufficient Proposition 42 funds in the project budget for the work and funding for this work is available in the following project account: (2231); Streets and Structures Organization (92242); Street Construction Account (57411); Project No. C369710; \$1,128,403.00; and

**WHEREAS**, the City advertised and issued a solicitation for bids for Citywide Street Rehabilitation and Reconstruction Phase 1 (Project No. C369620) on March 11, 2011 with an Engineer's Estimate for the work of \$5,133,212.00, and received three bids for the project on April 7, 2011 from: Gallagher and Burk, Inc. - \$3,728,403.00, Bay Cities Construction - \$4,086,688.80, and Ghilotti Brothers, Inc. - \$4,120,481.00; and

**WHEREAS**, staff recommends that it is in the best interests of the City, in light of the favorable bidding environment and low bids, that the Council waive advertising and bidding requirements for additional work not included in the notice inviting bids and authorize the City Administrator or his designee to increase the contract up to Seven Hundred Fifty Thousand Dollars (\$750,000.00), to add additional work to the contract under the same terms and conditions as the original contract awarded to Gallagher and Burk, Inc.; and

**WHEREAS**, Oakland Municipal Code Title 2, Chapter 2.04.050.1 (5) permits the dispensing of advertising and bidding upon a finding by the Council that it is in the best interests of the City to do so; and

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

**WHEREAS**, the City Administrator 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; now, therefore, be it

**RESOLVED:** That the contract for the Citywide Street Rehabilitation and Reconstruction Phase I Project No. C369620 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 April 7, 2011, in the amount of Three Million Seven Hundred Twenty-Eight Thousand Four Hundred Three Dollars (\$3,728,403.00); and be it



**FURTHER RESOLVED:** That all other bids submitted for Project No. C369620 are hereby rejected; and be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code Title 2, Chapter 2.04.050.I.5 and for the reasons stated in the City Administrator's report accompanying this Resolution and above, the City Council finds that it is in the best interests of the City to waive further advertising and bidding for additional paving work to be added to the above mentioned paving contract with Gallagher & Burk, Inc. and so waives the requirements; and be it

**FURTHER RESOLVED:** That the City Administrator or his designee is authorized to increase the contract award to Gallagher & Burke to add additional paving work not included in the Project No. C369620 notice inviting bids under the same terms and conditions of Gallagher and Burk's original contract award, and to increase the contract up to Seven Hundred Fifty Thousand Dollars (\$750,000.00) to pay for the additional work, for a total contract authorization of Four Million Four Hundred Seventy-Eight Thousand Four Hundred Three Dollars (\$4,478,083.00); 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 for 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 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