

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK  
OAKLAND

2017 NOV -2 AM 10: 21

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Ryan Russo, Director  
DOT

**SUBJECT:** Construction of Citywide Pavement  
Rehabilitation Program

**DATE:** October 19, 2017

City Administrator Approval

Date:

11/1/17

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Awarding A Construction Contract To Gallagher And Burk, Inc., The Lowest Responsive And Responsible Bidder, For The Construction of Citywide Pavement Rehabilitation Program (Project No. 1003298 REBID), In Accordance With Plans And Specifications And With Contractor's Bid In The Amount Of Eight Million Four Hundred Seventy-Six Thousand Two Hundred Ninety-Three Dollars (\$8,476,293.00).**

## EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator or designee to execute a construction contract with Gallagher and Burk, Inc., in the amount of \$8,476,293.00 for the construction of Citywide Pavement Rehabilitation Program (Project No. 1003298 REBID). The resurfacing work will be located throughout the City as shown in **Attachment A**. The selected streets are part of the citywide pavement rehabilitation program to improve pavement conditions.

## BACKGROUND/LEGISLATIVE HISTORY

On October 21, 2014, City Council adopted **Resolution No. 85227, Attachment B**, establishing a prioritization plan for the pavement rehabilitation program. The plan was to focus on pavement preservation, and a list of streets was identified to be resurfaced by the program. The plan also called for improving "worst streets" which are selected based on input from City Council, staff recommendations based on citizen complaints and street condition assessment.

The project consists of resurfacing 5.7 centerline miles of City streets. These streets are part of the pavement rehabilitation program and they are:

- 4th Street from Oak Street to Fallon Street
- 37th Street from San Pablo Avenue to Martin Luther King Junior Way
- 43rd Street from Adeline Street to Linden Street
- E. 8th Street from 5th Avenue to 7th Avenue
- Edgewater Drive from Pendleton Way to Hegenberger Road

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- Euclid Avenue from Jayne Avenue to Adams Avenue
- Fruitvale Avenue from Montana Street to MacArthur Boulevard
- Linden Street from 32nd Street to 34th Street
- Market Street from Grand Avenue to City Limit
- Moraga Avenue from East of Maxwell Road to Estates Drive
- Moraga Avenue from Pleasant Valley Avenue to Ramona Avenue
- Piedmont Avenue from Randwick Avenue to West MacArthur Boulevard
- Seminary Avenue from E. 16th Street to Foothill Boulevard
- Shafter Avenue from 51st Street to Forest Street
- Webster Street from 34th Street to 36th Street

The work includes pavement rehabilitation, pavement reconstruction, base repair, crack sealing, micro surfacing, speed bump, sidewalk improvements, curb ramp, and traffic striping and other related work as indicated on the plans and specifications. The work is in Council District 1, 2, 3, 4, 6 and 7 as shown in **Attachment A**.

### **ANALYSIS**

On July 13, 2017, the City received one bid from Gallagher and Burk, Inc in the amount of \$14,333,333.70. The bid exceeded the Engineer's Estimate of \$9,295,675.70 by 54 percent. The project plans were revised and rebid. Bid-alternates were added to include work not included in the base bid. The Engineer's Estimate of the rebid package is \$8,726,048.86, and the Engineer's Estimate of the bid alternates are \$1,765,477.90 and \$47,938.00.

On October 5, 2017, the City received two bids in the amounts of \$8,476,293.00 and \$8,782,785.45 from Gallagher and Burk, Inc. and McGuire and Hester, respectively. Gallagher and Burk, Inc. is deemed the lowest responsive and responsible bidder, and therefore is recommended for the award.

Under the proposed contract with Gallagher and Burk, Inc., the Local Business Enterprise/Small Local Business Enterprise (LBE/SLBE) participation will be 93.42%, which exceeds the City's 50% LBE/SLBE requirement. Trucking participation is 100% and exceeds the City's 50% requirement. The LBE/SLBE information has been verified by Contracts and Compliance Division of the City Administrator's Office, Contracts and Compliance Division and is shown in **Attachment C**.

The construction schedule is to begin early in 2018 as soon as weather permits, and should be completed by fall 2018. The contract specifies liquidated damages of \$1000 per calendar day if the contractor exceeds the contract completion time of 120 working days.

### **FISCAL IMPACT**

The project is part of the Citywide Pavement Rehabilitation Program. The cost to construct the project is included in FY 2017-18 Budget in Measure KK Fund (5330) and Measure BB Fund (2216), Engineer Design Streets and Structures Organization (92242), Street Construction Account (57411), and Project No. 1001293.

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

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

### **PUBLIC OUTREACH/INTEREST**

Prior to starting construction, residents and businesses affected by the work will be notified on the construction schedule and planned activities.

### **COORDINATION**

The work to be done under this contract was coordinated with Oakland Public Works (OPW) Bureau of infrastructure and Operation, Contracts and Compliance Division, and Bureau of Facilities and Environment. In addition, the Office of City Attorney and Budget's Bureau has reviewed this report and resolution.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The contractor is verified for Local Business Enterprise and Small Local Business Enterprise(LBE/SBLE) participation by the Social Equity Division of the Department of contracting and Purchasing. The contractors are required to have 50 percent of the work hours performed by Oakland residents, and 50 percent of all new hires are to be Oakland residents, which will result in funds being spent locally.

**Environmental:** The contractor will be required to make every effort to use best management practices for the protection of storm water runoff during construction.

**Social Equity:** This project is part of the citywide pavement rehabilitation program to preserve City's infrastructure, enhance public access and protect the public from hazardous conditions. The pavement rehabilitation program ensures that the pavement rehabilitation funds are spent in a manner that is cost effective throughout the City.

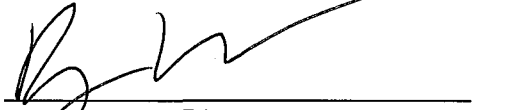
### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Awarding A Construction Contract To Gallagher And Burk, Inc., The Lowest Responsive And Responsible Bidder, For The Construction Of Citywide Pavement Rehabilitation Program (Project No. 1003298 REBID), In Accordance With Plans And Specifications And With Contractor's Bid In The Amount Of Eight Million Four Hundred Seventy-Six Thousand Two Hundred Ninety-Three Dollars (\$8,476,293.00).

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Public Works Committee  
November 14, 2017

For questions regarding this report, please contact Ade Oluwasogo, Acting Great Streets Manager, at (510) 238-6103.

Respectfully submitted,



Ryan Russo, Director  
Department of Transportation

Reviewed by:  
Wladimir Wlassowsky, P.E.  
Interim Assistant Director  
Department of Transportation

Reviewed by:  
Ade Oluwasogo, P.E.  
Acting Great Streets Manager  
Department of Transportation

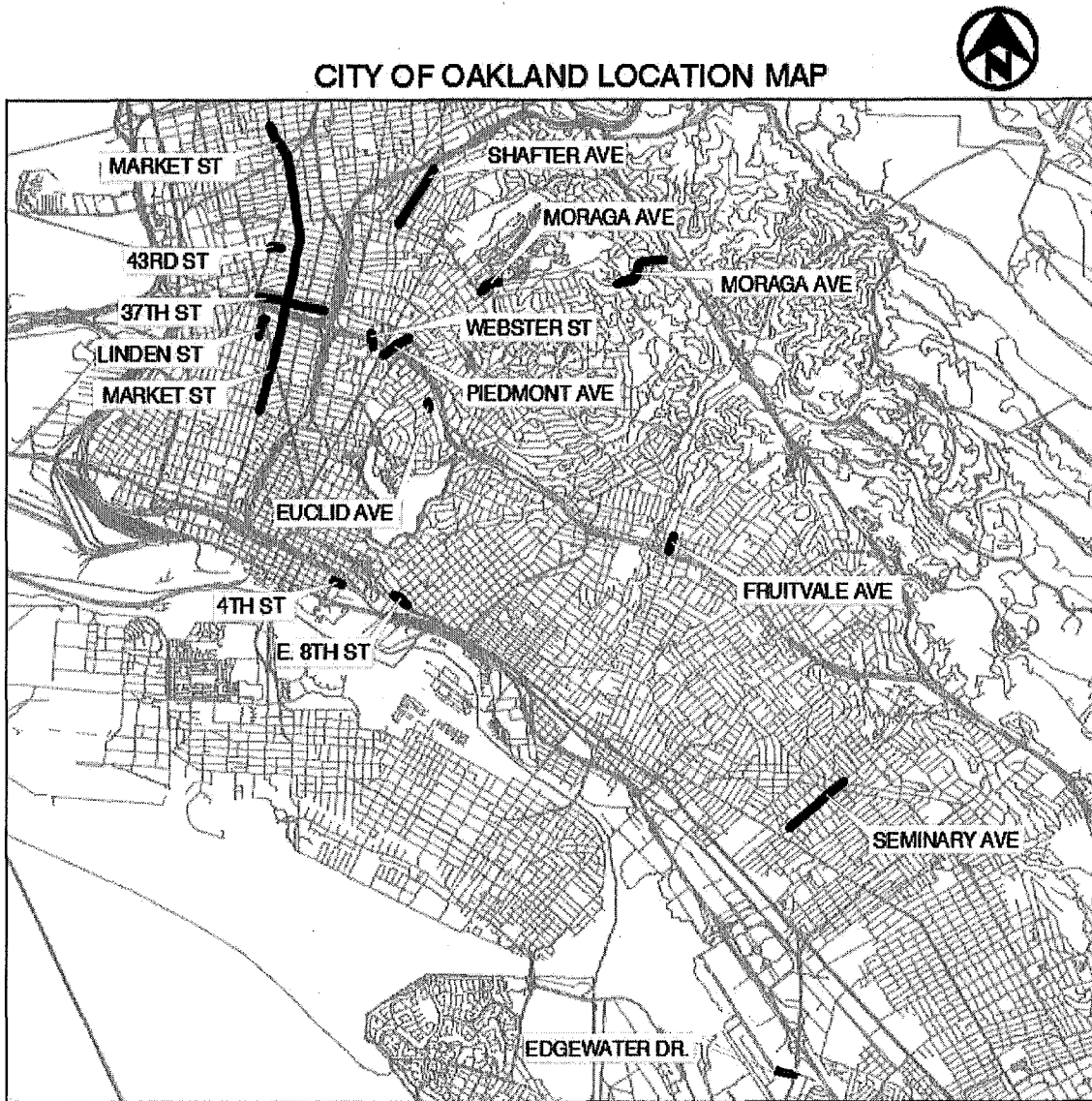
Reviewed by:  
Si Lau, P.E.  
Supervising Civil Engineer  
Department of Transportation

Prepared by:  
Mastewal Cherinet P.E.,  
Civil Engineer  
Department of Transportation

*Attachments (3):*

- A: Project Location Map*
- B: Contracts & Compliance Unit Compliance Evaluation*
- C: Contractor Performance Evaluation*

PROJECT LOCATION MAP



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved As To Form & Legality

City Attorney

2014 OCT 16 PM 1:16

REVISED BY PUBLIC WORKS COMMITTEE AT 10/14/14 MEETING

## OAKLAND CITY COUNCIL

RESOLUTION No. 85227 C.M.S.

Introduced by Councilmember \_\_\_\_\_

### RESOLUTION ESTABLISHING A PRIORITIZATION PLAN FOR THE CITY OF OAKLAND'S STREET PAVEMENT REHABILITATION PROGRAM

**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 City of Oakland continues to use the Pavement Management Program (PMP) to the Metropolitan Transportation Commission (MTC) StreetSaver® pavement management software; and

**WHEREAS**, the City of Oakland completed a citywide pavement distress survey in the fall of 2012 to update its Pavement Management Program database; and

**WHEREAS**, the 3-year moving average pavement condition index (PCI) has increased from 57 in 2011 to 60 in 2013; and

**WHEREAS**, in this system, 100 represents brand new pavement and 0 represents a completely failed pavement; and

**WHEREAS**, the City of Oakland is required by MTC to maintain and update a Pavement Management Program in order to remain eligible for federal street rehabilitation funding; and

**WHEREAS**, the Pavement Management Program standardizes the optimization and distribution of available funding for street rehabilitation projects; and

**WHEREAS**, the City of Oakland has limited financial resources to fund its street rehabilitation program; and

**WHEREAS**, the anticipated annual funding level for street rehabilitation for the City of Oakland is estimated to be approximately \$5.7 million over the next five years; and

**WHEREAS**, the anticipated annual funding level for street rehabilitation for the City of Oakland is estimated to be approximately \$13.1 million over the next five years if Measure BB passes; and

**WHEREAS**, the City of Oakland has established criteria to be used to prioritize streets proposed for rehabilitation using the Pavement Management Program based on Pavement Condition Index (PCI), visual inspection, and cost effectiveness; and

**WHEREAS**, the Pavement Management Program is utilized to prioritize and identify candidate streets for street rehabilitation projects that represents the most optimum use of available funding; and

**WHEREAS**, the City of Oakland continues to look for emerging cost-effective pavement technologies such as cape seal; and

**WHEREAS**, the City's Pavement Program will continue to follow the ADA Title II requirements detailed in a joint technical assistance guidance (Technical Assistance) released by the United States Department of Justice (DOJ) and the Federal Highway Administration (FHWA) in June of 2013; and

**WHEREAS**, the City's Pavement Program will continue to follow the "Complete Street" design standards which is reflected in City Resolution No. 13153 C.M.S dated February 19, 2013; 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**, the City Council of the City of Oakland continues to implement the "best-first" policy and the streets selected for the paving priority plan is provided in *Attachment A* and *Attachment B*; now, therefore be it

**RESOLVED:** That, in order to optimize resources to the extent possible, the City Council of the City of Oakland adopts and will use its PCI based Pavement Management Program to prioritize streets for rehabilitation; and be it

**FURTHER RESOLVED:** That a target of eighty percent (80%) of available street rehabilitation funds each year will be dedicated to rehabilitating streets that are identified by the Pavement Management Program, and that the remaining twenty percent (20%) of available funds will be dedicated to rehabilitating selected "worst streets" which is reflected in City Resolution No. 81039 C.M.S dated November 6, 2007.

**OCT 21 2014**

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

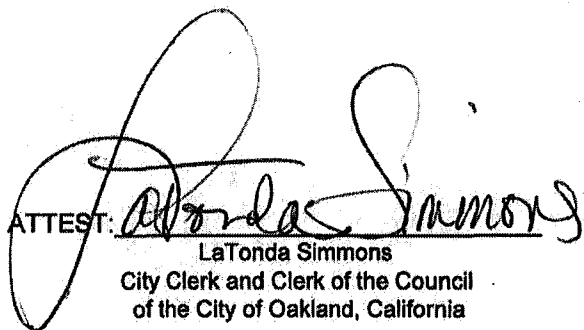
**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION 0

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





# INTER OFFICE MEMORANDUM

TO: Mastewal Cherinet

FROM: Deborah Barnes, *Deborah Barnes*  
Director, Contracts & Compliance

SUBJECT: Compliance Analysis  
Citywide Pavement Rehabilitation Program (Rebid)  
Project No. 1003298

DATE: October 16, 2017

City Administrator's Office, Contracts and Compliance Unit reviewed 2 (two) bids in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 50% 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.

Responsive to L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LPG	L/SLBE /VSLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
Gallagher & Burk	\$8,476,293	93.42%	52.15%	15.31%	25.95% *51.90%	100%	119.36%	5%	\$8,052,478.35	Y

\*Proposed VSLBE/LPG participation is valued at 25.95%, however, per the L/SLBE Program a VSLBE/LPG's participation is double counted towards meeting the requirement. Therefore, the VSLBE/LPG value is 51.90%.

**Comments:** As noted above, Gallagher & Burk exceeded the minimum 50% L/SLBE participation requirement. The firm is EBO compliant.

Non-Responsive to L/SLBE and/or EBO Policies		Proposed Participation					Earned Credits and Discounts			EBO Compliant? Y/N
Company Name	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE/LPG	L/SLBE /VSLBE Trucking	Total Credited participation	Earned Bid Discounts	Adjusted Bid Amount	
McGuire & Hester	\$8,782,785.45	75.77%	64.86%	10.91%	0%	100%	0%	0%	\$0	Y

**Comments:** As noted above, McGuire & Hester failed to meet the minimum 50% L/SLBE participation requirement. The firm is EBO compliant.



**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 & Burk**  
**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 & Burk 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.**

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

**CITY ADMINISTRATOR'S OFFICE**

**Contracts and Compliance Unit**



**PROJECT COMPLIANCE EVALUATION FOR :**

**Project No. 1003298**

**RE:** **Citywide Pavement Rehabilitation Program (Rebid)**

**CONTRACTOR: Gallagher & Burk**

<b><u>Engineer's Estimate:</u></b> \$8,726,048.86	<b><u>Contractors' Bid Amount</u></b> \$8,476,293.00	<b><u>Over/Under Engineer's Estimate</u></b> \$249,755.86
<b><u>Discounted Bid Amount:</u></b> \$8,052,478.35	<b><u>Amt. of Bid Discount</u></b> \$423,814.65	<b><u>Discount Points:</u></b> 5.00%

1. Did the 50% local/small local requirement apply: **YES**
2. Did the contractor meet the 50% requirement **YES**
  - a) % of LBE participation **52.15%**
  - b) % of SLBE participation **15.31%**
  - c) % of VSLBE participation **25.95%** (double counted value 51.90%)
3. Did the contractor meet the L/SLBE Trucking requirement? **YES**
  - a) Total L/SLBE trucking participation **0.00%**
  - a) Total VSLBE trucking participation **100.00%**
4. Did the contractor receive bid discount points? **YES**  
(If yes, list the points received) **5%**

5. Additional Comments.  
Proposed VSLBE/LPG participation is valued at 25.95%, however, per the L/SLBE Program a VSLBE/LPG's participation is double counted towards meeting the requirement. Therefore, the VSLBE/LPG value is 51.90%.

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

10/16/2017

Date

**Reviewing Officer:**

*Melinda*

**Date:** 10/16/2017

**Approved By:**

*Sherry Darenburg*

**Date:** 10/16/2017

## LBE/SLBE Participation Bidder 1

<b>Project Name:</b> Citywide Pavement Rehabilitation Program (Rebid)													
<b>Project No.:</b> 1003298		<b>Engineer's Estimate</b> \$8,726,048.86				<b>Under/Over Engineers Estimate:</b> \$249,756							
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethnicity		
											Ethn.	MBE	WBE
PRIME	Gallagher & Burk	Oakland	CB	4,420,293			4,420,293			4,420,293	C		
Adjust Iron	Pixley Construction	Hayward	UB							84,200	C		
Minor Concrete	AJW Construction	Oakland	CB		798,000		798,000			798,000	H	798,000	
Creak Seal, Microsurfacing	Bond Blacktop, Inc.	Union City	UB							23,800	C		23,800
Striping, Pavement	Chrisp Company	Fremont	UB							450,000	C		
Trucking	Monroe Trucking	Oakland	CB		500,000		500,000	500,000	500,000	500,000	AA	500,000	
Furnish Asphalt Concrete	Gallagher & Burk	Oakland	CB			2,200,000	2,200,000			2,200,000	C		
<b>Project Totals</b>				\$4,420,293 52.15%	\$1,298,000 15.31%	\$2,200,000 25.95%	\$7,918,293 93.42%	\$500,000 100.00%	\$500,000 100%	\$8,476,293 100%		\$1,298,000 15.31%	\$23,800 0.28%
<b>Requirements:</b> The 50% requirements is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% requirements and aVSLBE/LPP firm can be counted double towards achieving the 50% requirement.				LBE 25%	SLBE 25%	*VSLBE/LPG	TOTAL LBE/SLBE	L/SLBE TRUCKING	TOTAL DOLLARS	<b>Ethnicity</b> AA = African American A = Asian AI = Asian Indian AP = Asian Pacific 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 VSLBE = Very Small Local Business Enterprise LPG = Locally Produced Goods 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					

\*\* Proposed VSLBE/LPG participation is valued at 25.95%, however per the L/SLBE Program a VSLBE/LPG's participation is double counted towards meeting the requirement. Double counted percentage is reflected on the evaluation form and cover memo.

**CITY ADMINISTRATOR'S OFFICE**

**Contracts and Compliance Unit**



**PROJECT COMPLIANCE EVALUATION FOR :**

**Project No. 1003298**

**RE:**

**Citywide Pavement Rehabilitation Program (Rebid)**

**CONTRACTOR: McGuire & Hester**

<b>Engineer's Estimate:</b> \$8,726,048.86	<b>Contractors' Bid Amount</b> \$8,782,785.45	<b>Over/Under Engineer's Estimate</b> (\$56,736.59)
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<b>Discounted Bid Amount:</b> NA	<b>Amt. of Bid Discount</b> NA	<b>Discount Points:</b> NA
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1. Did the 50% local/small local requirement apply: **YES**

2. Did the contractor meet the 50% requirement **NO**

a) % of LBE participation **64.86%**

b) % of SLBE participation **10.91%**

c) % of VSLBE participation **0.00%**

3. Did the contractor meet the L/SLBE Trucking requirement? **YES**

a) Total L/SLBE trucking participation **0.00%**

a) Total VSLBE trucking participation **100.00%**

4. Did the contractor receive bid discount points? **NO**

(If yes, list the points received) **0%**

5. Additional Comments.

**Firm failed to meet the minimum 50% L/SLBE participation requirement with an 14.09% SLBE shortfall. Therefore, the firm is non-compliant.**

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

10/16/2017

Date

**Reviewing  
Officer:**

*[Handwritten Signature]*

**Date:** 10/16/2017

**Approved By:**

*[Handwritten Signature: Shelley Darenburg]*

**Date:** 10/16/2017

## LBE/SLBE Participation Bidder 2

<b>Project Name:</b> Citywide Pavement Rehabilitation Program (Rebid)													
<b>Project No.:</b> 1003298		<b>Engineer's Estimate</b> 8,726,048.86					<b>Under/Over Engineers Estimate:</b> -56,737						
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG	Total	L/S/VSLBE	Total	TOTAL			
							LBE/SLBE	Trucking	Trucking	Dollars	Ethn.	MBE	WBE
PRIME	McGuire & Hester	Oakland	CB	5,696,695			5,696,696			5,696,696.45	C		
Crack Seal	Bond Blacktop, Inc.	Union City	UB							99,894	C		99,894
Striping & Signs	Chrisp Company	Fremont	UB							346,737	C		
Trucking	S&S Trucking	Oakland	CB		957,858		957,858	957,858	95,788	957,858	H	95,788	
Asphalt Material	Vulcan Materials	Pleasanton	UB							1,681,600	C		
<b>Project Totals</b>				\$5,696,695 64.86%	\$957,858 10.91%	\$0 0.00%	\$6,654,554 75.77%	\$5,000 100.00%	\$5,000 100%	\$8,782,785.45 100%		\$95,788 1.09%	\$99,894 1.14%
<b>Requirements:</b> The 50% requirements is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving 50% requirements and a VSLBE/LPP firm can be counted double towards achieving the 50% requirement.				LBE 25%	SLBE 25%	VSLBE/LPG	TOTAL LBE/SLBE	L/SLBE TRUCKING	TOTAL DOLLARS	<b>Ethnicity</b> AA = African American A = Asian AI = Asian Indian AP = Asian Pacific 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		VSLBE = Very Small Local Business Enterprise		LPG = Locally Produced Goods		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	

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

Project Number/Title: 7th Street West Oakland Transit Village Project

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

Contractor: Gallagher & Burk

Date of Notice to Proceed: April 26, 2010

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

Date of Notice of Final Completion: May 13, 2015

Contract Amount: \$3,817,204.54

Evaluator Name and Title: Phillip Fung, 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:**

<b>Outstanding</b> (3 points)	Performance among the best level of achievement the City has experienced.
<b>Satisfactory</b> (2 points)	Performance met contractual requirements.
<b>Marginal</b> (1 point)	Performance barely met the lower range of the contractual requirements or performance only met contractual requirements after extensive corrective action was taken.
<b>Unsatisfactory</b> (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 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 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	<b>Overall, how did the Contractor rate on work performance?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	<input type="checkbox"/>



Unsatisfactory  
 Marginal  
 Satisfactory  
 Outstanding  
 Not Applicable

**TIMELINESS**

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.	<input type="checkbox"/>		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.	<input type="checkbox"/>		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
13	<b>Overall, how did the Contractor rate on timeliness?</b> 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"/>	<input type="checkbox"/>

Unsatisfactory  
Marginal  
Satisfactory  
Outstanding  
Not Applicable

**FINANCIAL**

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	<p>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?</p> <p>Number of Claims: _____</p> <p>Claim amounts: \$ _____</p> <p>Settlement amount: \$ _____</p>				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	<p><b>Overall, how did the Contractor rate on financial issues?</b></p> <p>The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines.</p> <p>Check 0, 1, 2, or 3.</p>	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

Unsatisfactory  
 Marginal  
 Satisfactory  
 Outstanding  
 Not Applicable

**COMMUNICATION**

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	<b>Overall, how did the Contractor rate on communication issues?</b> <b>The score for this category must be consistent with the responses to the questions given above regarding communication issues and the assessment guidelines.</b> <b>Check 0, 1, 2, or 3.</b>	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	<b>Overall, how did the Contractor rate on safety issues?</b> 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>.50</u>
2. Enter Overall score from Question 13	<u>2</u>	X 0.25 =	<u>.50</u>
3. Enter Overall score from Question 18	<u>2</u>	X 0.20 =	<u>.40</u>
4. Enter Overall score from Question 22	<u>2</u>	X 0.15 =	<u>.30</u>
5. Enter Overall score from Question 28	<u>2</u>	X 0.15 =	<u>.30</u>
<b>TOTAL SCORE (Sum of 1 through 5):</b>			<u>2.0</u>
<b>OVERALL RATING:</b>			<u>2.0</u>

- 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-

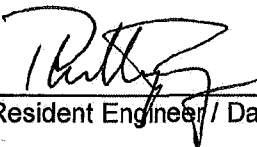
responsible for any bids they submit for future City of Oakland projects within three years of the date of the last Unsatisfactory overall rating.

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

 12/10/15  
\_\_\_\_\_  
Resident Engineer / Date

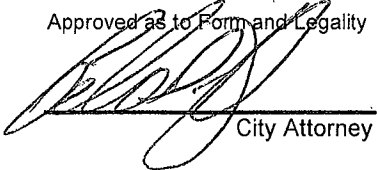
 12/10/15  
\_\_\_\_\_  
Supervising Civil Engineer / Date

For

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2017 NOV -2 AM 10:21

Approved as to Form and Legality



City Attorney

# OAKLAND CITY COUNCIL

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

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO GALLAGHER AND BURK, INC. THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE CONSTRUCTION OF CITYWIDE PAVEMENT REHABILITATION PROGRAM (PROJECT NO. 1003298 REBID) IN ACCORDANCE WITH PLANS AND SPECIFICATIONS FOR THE PROJECT AND WITH CONTRACTOR'S BID IN THE AMOUNT OF EIGHT MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND TWO HUNDRED NINETY-THREE DOLLARS (\$8,476,293.00)**

**WHEREAS**, on October 5, 2017, two bids were received by the Office of the City Clerk of the City of Oakland for the construction of Citywide Pavement Rehabilitation Program (Project No. 1003298 Rebid); and

**WHEREAS**, Gallagher and Burk, a certified SLBE bidding as a prime, is deemed the lowest responsive and responsible bidder for the project; and

**WHEREAS**, there are sufficient funds in the project budget for the work. Funding for this project is available in the following project account as part of FY 2017-18 budget in Measure KK Fund (5330) and Measure BB Fund (2216), Engineer Design Streets and Structures Organization (92242), Street Construction Account (57411), and Project No. 1001293; and

**WHEREAS**, the street rehabilitation program works to preserve the City's infrastructure; and

**WHEREAS**, the City Council finds and determines based on the representation set forth in the City Administrator's report accompanying this Resolution that the construction contract approved hereunder is temporary in nature; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, that the performance of this contract is in the public interest because of economy or better performance and that this contract is of a professional, scientific or technical nature; and

**WHEREAS**, Gallagher and Burk, complies with all LBE/SBLE and trucking requirements; and

**WHEREAS**, the City Council finds and determines that the performance of this contract 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 Administrator is authorized to award a construction contract to Gallagher and Burk, Inc. the lowest responsive and responsible bidder for Citywide Pavement Rehabilitation Program (Project No.1003298 Rebid) and with contractor's bid in the amount of eight million four hundred seventy-six thousand two hundred ninety-three dollars (\$8,476,293.00) and in accordance with plans and specifications for the Project and contractor's bid dated October 5, 2017; and be it

**FURTHER RESOLVED:** That the amount of the bond for faithful performance bond, \$8,476,293.00; and the bond to guarantee payment of all claims for labor and material furnished and for the amount under the Unemployment Insurance Act, \$8,476,293.00 with respect to such work are hereby approved; and be it

**FURTHER RESOLVED:** The City Administrator, or designee, is hereby authorized to enter into a contract with Gallagher and Burk, Inc. on behalf of the City of Oakland and to execute any amendments or modification of the contract within the limitation of the project specification; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to negotiate with the second lowest bidder and/or next lowest bidder for the same awarded amount, if Gallagher and Burk, Inc fails to return the complete signed contract documents and supporting documents within the days specified in the Special Provision without going back to City Council; and be it

**FURTHER RESOLVED:** That the Plans and Specifications prepared for this project, including any subsequent changes during construction, that will be reviewed and adopted by the Director, or designee, are hereby approved; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to reject all other bids; and be it



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

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

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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