

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

2009 SEP -3 AM 9:08

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: September 15, 2009

RE: **Resolution Authorizing And Appropriating A Contribution Of Redevelopment Agency Funds To The City Under The Cooperation Agreement In The Amount Of Ninety-Two Thousand Dollars (\$92,000.00) For The Construction Of The Hall Of Pioneers Chinese Garden Improvement Project**

**Resolution Authorizing The City To Accept And Appropriate A Contribution Of Redevelopment Agency Funds Under The Cooperation Agreement In The Amount Of Ninety-Two Thousand Dollars (\$92,000.00) For The Construction Of The Hall Of Pioneers Chinese Garden Improvement Project**

**Resolution Authorizing The City Administrator, Or His Designee, To Award A Contract To The Lowest, Responsible, Responsive Bidder, McGuire And Hester, In An Amount Not-To-Exceed Two Hundred Eleven Thousand Seven Hundred Sixty-Five Dollars (\$211,765.00) For The Construction Of The Hall Of Pioneers Chinese Garden Improvement Project In Accord With Plans And Specifications For The Project (No. P338510) And Contractor's Bid Therefor**

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### SUMMARY

This report presents three resolutions: 1) authorizing the Redevelopment Agency to appropriate funds to the City for the Hall of Pioneers Chinese Garden Improvement Project (No. P338510); 2) authorizing the City to accept and appropriate the funds from Redevelopment Agency; and 3) authorizing the award of a construction contract to McGuire And Hester, the lowest, responsive and responsible bidder who has met the City's Compliance Program requirements. The project involves site grading, installation of a concrete entry walkway, new concrete pathways, new irrigation and sod, new plants and trees and other related work. The project is located in Council District 2. (See *Attachment A – Site Location Map*)

### FISCAL IMPACT

Approval of the attached resolutions will:

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Public Works Committee  
September 15, 2009

- 1) Authorize the appropriation of Redevelopment Agency funds in the amount of \$92,000.00 from Redevelopment Agency Fund (9532), CEDA, Capital Improvement Project Organization (94800), Redevelopment Central District Project (T314520), Contract Contingency Account (54011) to the City for the construction of Hall of Pioneers Chinese Garden Improvement Project. These funds will be accepted by the City and appropriated to Project No. P338510, Redevelopment Agency Fund 7780; Capital Program Organization 92270; Landscape Improvement Account 57112 in the amount of \$92,000.00; Program IN06.

Staff conducted a community meeting and developed a list of stakeholder priorities. The additional \$92,000.00 of ORA funding is required in order to complete the list of priorities identified through the community process, including replacement of the entire lawn area and the substandard sidewalk between the new ADA parking stalls and the entrance to the building for improved accessibility.

The original plan for the Hall of Pioneers Chinese Garden Improvement Project was accepted by City Council in December 2007 as part of the Park Prioritization process with a budget of \$1,294,000.00. In December 2007 Council accepted and appropriated \$243,000.00 of ORA funds for the Project (Resolution No. 80960 C.M.S.). The current project budget total, including the additional \$92,000.00, is \$335,000.00, which will allow the installation of the stakeholder’s list of priorities.

- 2) Authorize the award of a construction contract to McGuire and Hester in the amount of \$211,765.00. Sufficient funds, in the amount of \$245,000.00 which includes \$33,235.00 for construction contract contingency, will be available to award the contract from the following funding sources once the additional Redevelopment Agency funds in the amount of \$92,000.00 is appropriated:

<u>Amount</u>	<u>Funding Description</u>
\$211,765.00	Redevelopment Agency Fund (7780), Capital Projects – Project Management Organization (92270), Hall of Pioneers Chinese Garden Improvement Project (P338510), Landscape Improvement Account (57112), Project Delivery Program (IN06)
\$ 33,235.00	Redevelopment Agency Fund (7780), Capital Projects – Project Management Organization (92270), Hall of Pioneers Chinese Garden Improvement Project (P338510), Construction Contingency Account (54011), Project Delivery Program (IN06)

Over time there will be an increase in maintenance requirements due to new irrigation system, trees and plants. Existing resources and staffing are limited such that the level of maintenance will be impacted.

## **BACKGROUND**

On June 18, 2009, the City Clerk received four bids for the Hall of Pioneers Chinese Garden Improvement Project. Beliveau Engineering Contractors, Inc., Ashbury Homes, Bay Construction and McGuire and Hester submitted bids of \$304,000.00, \$275,347.00, \$247,500.00 and \$211,765.00 respectively. Refer to **Attachment B** for a summary of bids. The engineer's estimate is \$253,230.00. The lowest responsive and responsible bid of \$211,765.00 was submitted by McGuire and Hester and is within the project budget.

The Pioneers Hall Chinese Garden Improvement Project will improve the recreational area by installing new irrigation and sod, ADA accessible concrete pathways and parking, new trees and plants.

## **KEY ISSUES AND IMPACTS**

The Hall of Pioneers Chinese Garden Improvement Project is eligible for Redevelopment Agency funds under the requirements that the improvements to the park serve redevelopment purposes: 1) The improvements will benefit the Central Redevelopment Project Area by installing new landscaping including new irrigation and lawn. 2) City Capital Improvement Program (CIP) funds are not available to provide financing for the Hall of Pioneers Chinese Garden Improvement Project in the City's FY 2009-2011 budget and no other reasonable means of financing the Hall of Pioneers Chinese Garden Improvement Project are available to the City other than Redevelopment Agency funding. 3) The use of tax increment funds from the Central Project Area for the Hall of Pioneers Chinese Garden Improvement Project will assist in the elimination of barren, un-irrigated open space and improve the park by installing a new lawn with irrigation, ADA accessible parking and pathways for park and building access, as well as provide new landscaping. 4) The use of tax increment funds from the Central Redevelopment Project Area for the Hall of Pioneers Chinese Garden Improvement Project is consistent with the implementation plan adopted for the Central Redevelopment Project Area. The additional Redevelopment funds will provide the necessary funds to complete the project.

Of the four bids received, three bids met and exceeded City Local / Small Local Business Enterprise (L/SLBE) programs. The fourth bid by Ashbury Homes (dba AHI) failed to meet L/SLBE program and is deemed non-responsive. The lowest responsive and responsible bid, submitted by McGuire and Hester, meet L/SLBE program participation with 85.22%. The L/SLBE information has been verified by the Department of Contracting and Purchasing of the City Administrator's Office and is included as **Attachment B**.

Upon approval of the resolutions, a contract will be awarded and construction is estimated to begin in October 2009. The project duration is 75 working days from the date of the Notice to Proceed and completion is anticipated no later than January 2010. The construction contract specifies \$500.00 in liquidated damages per calendar day if the contract completion time of 75 working days is exceeded.

### **PROJECT DESCRIPTION**

This project addresses the community's request for improvements to the substandard landscaping and accessibility to Pioneer Hall Chinese Garden Park. The grounds and the building are used primarily by senior citizens for whom accessibility is a major concern. The project involves grading, installation of concrete, ADA accessible pathways and parking, new lawn and irrigation, and additional landscaping including installation of trees.

### **EVALUATION OF PAST PERFORMANCE**

McGuire and Hester have performed effectively in past projects. They ranked "Satisfactory" overall for the Alameda Avenue Oakland Waterfront Bay Trail Project (No. C243911), which was completed in November 2007. See *Attachment C* for a copy of the evaluation.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The project will generate jobs for Oakland residents, and business tax, sales tax and other revenues for the City by those who work on the project.

**Environmental:** The contractor will be required to use recyclable construction materials to the extent feasible and is required to recycle construction debris in accordance with City standards.

**Social Equity:** The improvements to the Hall of Pioneer Chinese Garden Park will benefit the neighborhood and the community at large by providing added recreational amenities for users of all ages.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The improvement project will maintain and improve accessibility to persons with disabilities and senior citizens. All construction will meet the requirements of the Americans with Disabilities Act.

### **RECOMMENDATION AND RATIONALE**

It is recommended that the Redevelopment Agency appropriate funds in the amount of \$92,000.00 to the City for the Hall of Pioneers Chinese Garden Project (No. P338510) and that

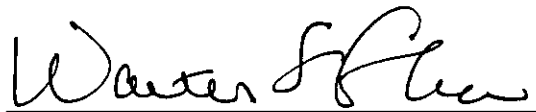
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Public Works Committee  
September 15, 2009

City Council authorize the City Administrator, or his designee, to accept and appropriate the funds from the Redevelopment Agency and award a construction contract to McGuire and Hester, for the project in an amount not-to-exceed two hundred eleven thousand, seven hundred sixty-five dollars (\$211,765.00). McGuire and Hester, is a certified Local Business Enterprise, and they have met the SLBE requirements. Sufficient funds will be available to construct this project with the acceptance and appropriation of the Redevelopment funds.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the proposed resolutions.

Respectfully submitted,

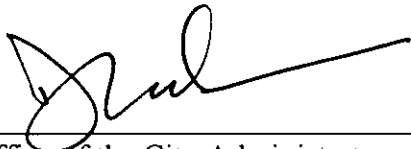


Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed by:  
Michael Neary, P.E.  
Deputy Director  
Department of Engineering & Construction

Prepared by:  
Ali Schwarz  
C. I. P. Coordinator  
Project Delivery Division

APPROVED AND FORWARDED  
TO THE PUBLIC WORKS COMMITTEE:



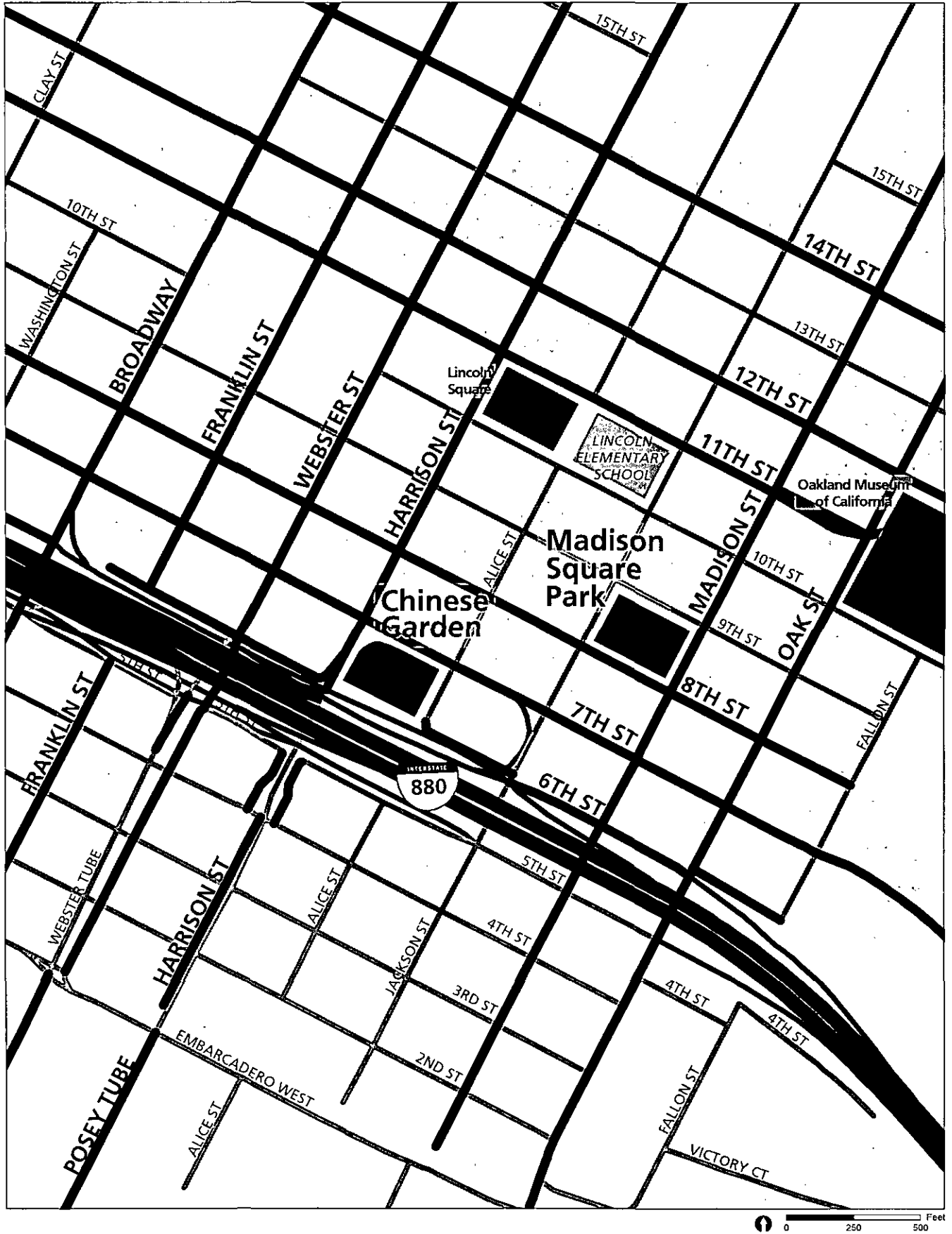
Office of the City Administrator

Attachments:

- A. Location Map
- B. Contract Compliance & Employment Services Compliance Analysis
- C. Contract Compliance & Employment Services Performance Evaluation

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Public Works Committee  
September 15, 2009

Location Map:





*Memo*

**Department of Contracting and Purchasing**

Social Equity Division

**To:** Alison Schwarz - Project Manager  
**From:** Sophany Hang - Acting Contract Compliance Officer  
**Through:** Deborah Barnes - DC & P Director  
 Shelley Darenburg - Sr. Contract Compliance Officer *S. Darenburg*  
**CC:** Gwen McCormick - Contract Administrator Supervisor  
**Date:** June 30, 2009  
**Re:** P338510- Hall of Pioneers Chinese Garden Landscape Improvements-Including Bid Alternates Nos.1, 2, and 3

The Department of Contracting and Purchasing (DC&P), Division of Social Equity, reviewed four (4) bids in response to 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.

Responsive		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		
McGuire and Hester	\$211,765	85.22%	74.36%	10.86%	100%	21.72%	2%	\$207,530	0%	Y
Bay Construction Company	\$247,500	99.19%	0%	99.19%	100%	99.19%	5%	\$235,125	2%	Y
Beliveau Engineering Contractors	\$304,000	98.85%	0%	98.85%	100%	98.85%	5%	\$288,800	2%	Y

**Comments:** As noted above, all firms exceeded the City's minimum 20% L/SLBE participation requirement. All firms are EBO compliant.

Non-Responsive		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		
Ashbury Homes dba AHI	\$275,347	0%	0%	0%	0%	0%	0%	\$0	0%	N

**Comments:** As noted above, Ashbury Homes dba AHI failed to meet the minimum 20% L/SLBE and trucking participation requirement. Therefore, they 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 for the lowest bidder's most recently completed City of Oakland project.

**Contractor Name: McGuire and Hester**  
**Project Name: Leveling the Playing Fields**  
**Project No: C290810**

**Date: 6/26/09**

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

Was the 50% LEP Goal achieved?	Yes	If no, shortfall hours?	
Were all shortfalls satisfied?	Yes	If no, penalty amount	

**15% Oakland Apprenticeship Program**

Was the 15% Apprenticeship Goal achieved?	Yes	If no, shortfall hours?	
Were shortfalls satisfied?	Yes	If no, penalty amount?	

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
3728	1864	50%	1864	100%	1864	0	0	100%	520	15%	520	0

**Comments: McGuire & Hester met the Local Employment Program's 50% resident hiring goal with 100% resident employment and met the 15% Oakland Apprenticeship Program goals with 260 on-site hours and 260 off-site hours.**

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



DEPARTMENT OF CONTRACTING AND PURCHASING



Social Equity Division

PROJECT EVALUATION FORM

PROJECT NO.: P338510

PROJECT NAME: Hall of Pioneers Chinese Garden Landscape Improvements

CONTRACTOR: McGuire and Hester

<u>Engineer's Estimate:</u> \$160,000	<u>Contractors' Bid Amount</u> \$211,765	<u>Over/Under Engineer's Estimate</u> (\$51,765)
<u>Discounted Bid Amount:</u> \$207,530	<u>Amount of Bid Discount</u> \$4,235	<u>Discount Points:</u> 2%

1. Did the 20% requirements apply? YES
2. Did the contractor meet the 20% requirement? Yes
  - b) % of LBE participation 74.36%
  - c) % of SLBE participation 10.86%
3. Did the contractor meet the Trucking requirement? YES
  - a) Total SLBE/LBE trucking participation 100%
4. Did the contractor receive bid discounts? NO

(If yes, list the percentage received) 2%
5. Additional Comments.

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

6/30/2009

Date

Reviewing Officer:

Stephen Hung

Date: 6/30/09

Approved By

Shelley Oarensburg

Date: 6/30/09

# LBE/SLBE PARTICIPATION BIDDER 1

Project Name: Hall of Pioneers Chinese Garden Landscape Improvements

Project No.: P338510		Engineers Est: 160,000				Under/Over Engineers Estimate: -51,765				For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total	L/SLBE	Total	TOTAL	Ethn.	MBE	WBE
						LBE/SLBE	Trucking	Trucking	Dollars			
Prime	McGuire and Hester	Oakland	CB	150,965		150,965			150,965	C		
Plant Supply	Norman's Nursery	Linden	UB						1,730	NL		
Amender Supply	Allied Waste	Milpites	UB						2,500	NL		
Metal Header	Dura Edge	Tuscon	UB						2,870	NL		
Mulch	Grover Landscape Services	Modesto	UB						900	NL		
Irrigation	John Deere Landscape	Pacheco	UB						9,500	NL		
Concrete	Cemex	Oakland	CB	6,500		6,500			6,500	C		
Sod	West Coast Turf	Livingston	UB						13,800	NL		
Striping/Signage	Lineation Marking	Oakland	CB		3,100	3,100			3,100	C		
Trucking, Broker, Concrete/AC, Aggregate Supply	S & S Trucking	Oakland	CB		19,900	19,900	19,900	19,900	19,900	H	19,900	
<b>Project Totals</b>				\$157,465	\$23,000	\$180,465	\$19,900	\$19,900	\$211,765		\$19,900	\$0
				74.36%	10.86%	85.22%	100%	100%	100%		9.40%	0%
<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%	TOTAL LBE/SLBE	20% LBE/SLBE TRUCKING			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
<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 EVALUATION FORM**

**PROJECT NO.:** P338510

**PROJECT NAME:** Hall of Pioneers Chinese Garden Landscape Improvements

**CONTRACTOR:** Belliveau Engineering Contractors

<b>Engineer's Estimate:</b>	<b>Contractors' Bid Amount</b>	<b>Over/Under Engineer's Estimate</b>
\$160,000	\$304,000	(\$144,000)

<b>Discounted Bid Amount:</b>	<b>Amount of Bid Discount</b>	<b>Discount Points:</b>
\$288,800	\$15,200	5%

- 1. Did the 20% requirements apply? **YES**
- 2. Did the contractor meet the 20% requirement? **YES**
  - b) % of LBE participation **0%**
  - c) % of SLBE participation **98.85%**
- 3. Did the contractor meet the Trucking requirement? **YES**
  - a) Total SLBE/LBE trucking participation **100%**
- 4. Did the contractor receive bid discounts? **YES**  
(If yes, list the percentage received) **5%**
- 5. Additional Comments.

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

6/30/2009

Date

**Reviewing Officer:**

*[Signature]*

**Date:**

6/30/09

**Approved By:**

*[Signature]*

**Date:**

6/30/09

# LBE/SLBE PARTICIPATION BIDDER 4

Project Name: **Hall of Pioneers Chinese Garden Landscape Improvements**

Project No.: P338510		Engineers Est: 160,000				Under/Over Engineers Estimate: -144,000				For Tracking Only			
Discipline		Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn.	MBE	WBE	
Prime	Beliveau Engineering Contractors	Oakland	CB		300,500	300,500			300,500	C			
Trucking	Williams Trucking	Oakland	UB					3,500	3,500	AA	3,500		
<b>Project Totals</b>				\$0	\$300,500	\$300,500	\$0	\$3,500	\$304,000		\$3,500	\$0	
				0%	98.85%	98.85%	0%	100%	100%		1.15%	0%	
<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.				<b>LBE 10%</b>	<b>SLBE 10%</b>	<b>TOTAL LBE/SLBE</b>	<b>20% LBE/SLBE TRUCKING</b>			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership			
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 EVALUATION FORM**

**PROJECT NO.:** P338510

**PROJECT NAME:** Hall of Pioneers Chinese Garden Landscape Improvements

**CONTRACTOR:** Bay Construction

<b>Engineer's Estimate:</b> \$160,000	<b>Contractors' Bid Amount</b> \$247,500	<b>Over/Under Engineer's Estimate</b> (\$87,500)
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<b>Discounted Bid Amount:</b> \$235,125	<b>Amount of Bid Discount</b> \$12,375	<b>Discount Points:</b> 5%
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1. Did the 20% requirements apply? **YES**
2. Did the contractor meet the 20% requirement? **YES**
  - b) % of LBE participation **0%**
  - c) % of SLBE participation **99.19%**
3. Did the contractor meet the Trucking requirement? **YES**
  - a) Total SLBE/LBE trucking participation **100%**
4. Did the contractor receive bid discounts? **YES**

(If yes, list the percentage received) **5%**
5. Additional Comments.

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

6/30/2009

Date

**Reviewing  
Officer:**

*Jeffrey Hung*

**Date:** 6/30/09

**Approved By**

*Shelley Sorenson*

**Date:** 6/30/09

## LBE/SLBE PARTICIPATION BIDDER 2

Project Name: Hall of Pioneers Chinese Garden Landscape Improvements

Project No.: P338510		Engineers Est: 160,000				Under/Over Engineers Estimate: -87,500				For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn.	MBE	WBE
PRIME Trucking	Bay Construction	Oakland	CB		245,500	245,500			245,500	AP	245,500	
	Williams Trucking	Oakland	UB						2,000	AA	2,000	
<b>Project Totals</b>				\$0	\$245,500	\$245,500	\$0	\$0	\$247,500		\$247,500	\$0
				0%	99.19%	99.19%	0%	0%	100%		100%	0%
<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.				<b>LBE 10%</b>	<b>SLBE 10%</b>	<b>TOTAL LBE/SLBE</b>	<b>20% LBE/SLBE TRUCKING</b>			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
<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 EVALUATION FORM**

**PROJECT NO.:** C284510

**PROJECT NAME:** Hall of Pioneers Chinese Garden Landscape Improvements

**CONTRACTOR:** Ashbury Homes dba AHI

<b>Engineer's Estimate:</b> \$160,000	<b>Contractors' Bid Amount</b> \$275,347	<b>Over/Under Engineer's Estimate</b> -\$115,347
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<b>Discounted Bid Amount:</b> \$0	<b>Amount of Bid Discount</b> \$0	<b>Discount Points:</b> 0%
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1. Did the 20% requirements apply? **YES**
2. Did the contractor meet the 20% requirement? **NO**
  - b) % of LBE participation **0%**
  - c) % of SLBE participation **0%**
3. Did the contractor meet the Trucking requirement? **YES**
  - a) Total SLBE/LBE trucking participation **NO**
4. Did the contractor receive bid discounts? **NO**

(If yes, list the percentage received) **0%**
5. Additional Comments.

Contractor failed to meet the minimum 20% L/SLBE and Trucking participation requirement. Therefore, they are deemed non-responsive.

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

6/30/2009  
Date

**Reviewing  
Officer:**

[Signature]

**Date:** 6/30/09

**Approved By:**

Shelley Sorenson

**Date:** 6/30/09

# LBE/SLBE PARTICIPATION

## BIDDER 3

Project Name: Half of Pioneers Chinese Garden Landscape Improvements

Project No.: P338510		Engineers Est: 160,000				Under/Over Engineers Estimate: -115,347				For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	L/SLBE Trucking	Total Trucking	TOTAL Dollars	Ethn.	MBE	WBE
PRIME Landscape	Ashbury Homes dba AHI	San Francisco	UB						208,565			
	Loza Brothers	Oakland	UB						66,782	H	66,782	
<b>Project Totals</b>				\$0	\$0	\$0	\$0	\$0	\$275,347		\$66,782	\$0
				0%	0%	0%	0%	0%	100%		24.25%	0%
<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.				<b>LBE-10%</b>	<b>SLBE-10%</b>	<b>TOTAL LBE/SLBE</b>	<b>20% LBE/SLBE TRUCKING</b>			<b>Ethnicity</b> AA = African American AI = Asian Indian AP = Asian Pacific C = Caucasian H = Hispanic NA = Native American O = Other NL = Not Listed MO = Multiple Ownership		
<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 C

City of Oakland  
Public Works Agency  
CONTRACTOR PERFORMANCE EVALUATION C243911

Project Title: Alameda Ave Oakland Water Street Res  
Work Order Number: T21  
Contractor: Mc Gure & Hester  
Date of Notice to Proceed: June 16, 2007  
Date of Notice of Completion: Nov 27, 2007  
Date of Notice of Final Completion:  
Contract Amount: Final contract sum: \$20,125  
Evaluator Name and Title: James McGee Architectural Services

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 is 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.

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>.5</u> |
| 2. Enter Overall score from Question 13 | <u>2</u> | X 0.25 = | <u>.5</u> |
| 3. Enter Overall score from Question 18 | <u>2</u> | X 0.20 = | <u>.4</u> |
| 4. Enter Overall score from Question 22 | <u>2</u> | X 0.15 = | <u>.3</u> |
| 5. Enter Overall score from Question 28 | <u>2</u> | X 0.15 = | <u>.3</u> |

TOTAL SCORE (Sum of 1 through 5):

2

OVERALL RATING:

2

- 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.

Contractor Evaluation Form

Contractor:

McQuire & Hester

Project No.

6243911

E13

**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.

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.			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> N/A
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 checked="" 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.			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
5	Did the Contractor cooperate with on-site or adjacent tenants, business owners and residents and work in such a manner as to minimize disruptions to the public. If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Did the personnel assigned by the Contractor have the expertise and skills required to satisfactorily perform under the contract? If "Marginal or Unsatisfactory", explain on the attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Overall, how did the Contractor rate on work performance? The score for this category must be consistent with the responses to the questions given above regarding work performance and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**TIMELINESS**

		Unsatisfactory	Marginal	Satisfactory	Outstanding	Not Applicable
8	Did the Contractor complete the work within the time required by the contract (including time extensions or amendments)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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 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 #8. If "Yes", complete (9a) below.			Yes <input type="checkbox"/>	No <input checked="" 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"/>	

Contractor Evaluation Form

Contractor:

*McClure & Hester*

Project No.

*C-243911*

*422*

FINANCIAL

Unsatisfactory  
Marginal  
Satisfactory  
Outstanding  
Not Applicable

14	Were the Contractor's billings accurate and reflective of the contract payment terms? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected invoices).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	Were there any claims to increase the contract amount? If "Yes", list the claim amount. Were the Contractor's claims resolved in a manner reasonable to the City?  Number of Claims: _____ Claim amounts: \$ _____ Settlement amount: \$ _____				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
16	Were the Contractor's price quotes for changed or additional work reasonable? If "Marginal or Unsatisfactory", explain on the attachment. Provide documentation of occurrences and amounts (such as corrected price quotes).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	Were there any other significant issues related to financial issues? If Yes, explain on the attachment and provide documentation.				Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
18	Overall, how did the Contractor rate on financial issues? The score for this category must be consistent with the responses to the questions given above regarding financial issues and the assessment guidelines. Check 0, 1, 2, or 3.	0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input checked="" type="checkbox"/>	3 <input type="checkbox"/>	

**COMMUNICATION**

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

Contractor Evaluation Form

Contractor:

*McGwire & Hester*

Project No.

*2243911*

EA

**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	No
						<input checked="" type="checkbox"/>	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
25	Was the Contractor warned or cited by OSHA for violations? If Yes, explain on the attachment.					Yes	No
						<input type="checkbox"/>	<input checked="" type="checkbox"/>
26	26. Was there an inordinate number or severity of injuries? Explain on the attachment. If Yes, explain on the attachment.					Yes	No
						<input type="checkbox"/>	<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	No
						<input type="checkbox"/>	<input checked="" type="checkbox"/>
28	Overall, how did the Contractor rate on safety issues? The score for this category must be consistent with the responses to the questions given above regarding safety issues and the assessment guidelines. Check 0, 1, 2, or 3.	0	1	2	3		
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		



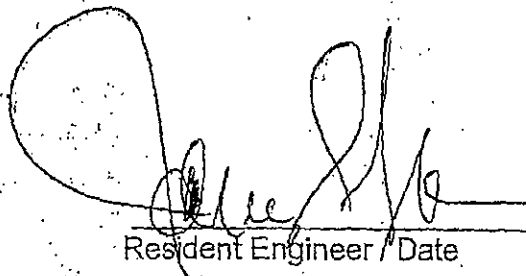
Contractors who receive an Unsatisfactory Overall Rating (i.e., Total Score less than 1.0) will be allowed the option of voluntarily refraining from bidding on any City of Oakland projects within one year from the date of the Unsatisfactory Overall Rating, or of being categorized as non-responsible for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

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

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

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

\_\_\_\_\_  
Contractor / Date

  
\_\_\_\_\_  
Resident Engineer / Date

6/11/08

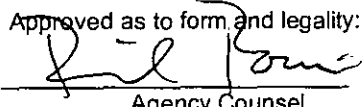
  
\_\_\_\_\_  
Supervising Civil Engineer / Date

Contractor: McBurt & Aester Project No. 020391 E19

FILED -  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 SEP -3 AM 9:08

Approved as to form and legality:

  
Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

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

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### RESOLUTION AUTHORIZING AND APPROPRIATING A CONTRIBUTION OF REDEVELOPMENT AGENCY FUNDS TO THE CITY UNDER THE COOPERATION AGREEMENT IN THE AMOUNT OF \$92,000 FOR THE CONSTRUCTION OF THE HALL OF PIONEERS CHINESE GARDEN IMPROVEMENT PROJECT

**WHEREAS**, the Redevelopment Agency wishes to fund design and construction of the Hall of Pioneers Chinese Garden Improvement Project, a substandard public park located in the Central District Redevelopment Project Area; and

**WHEREAS**, the City of Oakland and Redevelopment Agency are implementing the 2009-2011 Agency Budget for the Central District Redevelopment Project, including the Hall of Pioneers Chinese Garden Improvement Project to encourage public use of the park, to address the needs of the parks, and complement and enhance economic development efforts for the Central District Project Area; and

**WHEREAS**, the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Redevelopment Agency financial contributions and other assistance to support City public improvements; and

**WHEREAS**, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the installation cost or construction of publicly-owned facilities, including facilities outside of a project area, if the legislative body has consented to such funding and has made certain findings; and

**WHEREAS**, the City Council is consenting to the use of Agency funding for the Hall of Pioneers Chinese Garden Improvement Project pursuant to Section 33445 of the California Health and Safety Code; now, therefore, be it

**RESOLVED:** That the Agency Administrator is authorized to contribute an amount not to exceed \$92,000, including contingency, under the Cooperation Agreement to the City of

Oakland for the construction of Hall of Pioneers Chinese Garden Improvement Project (Project No.P338510); and be it

**FURTHER RESOLVED:** That the Redevelopment Agency Funds will be appropriated from Redevelopment Agency Fund (9532), CEDA, Capital Improvement Project Organization (94800), Redevelopment Central District Project (T314520), Contract Contingency Account (54011) to the City for the construction of Hall of Pioneers Chinese Garden Improvement Project; and be it

**FURTHER RESOLVED:** That the Agency contribution is appropriated with contingency funding up to a total amount of \$92,000 as set forth in the 2009-11 Redevelopment Budget; and be it

**FURTHER RESOLVED:** That the Agency hereby finds and determines as follows:

1. That the funding of the Hall of Pioneers Chinese Garden Improvement Project will benefit the Central District Redevelopment Project Area by installing needed park improvements, including new recreational facilities and vegetation, removing contaminated soils, and otherwise alleviating substandard park conditions, which will benefit residents, business owners and property owners in the Central District who are the principal users of the park;
2. That due to fiscal constraints on the City's general fund and the high number of capital projects competing for limited City funds, the City's Capital Improvement Program ("CIP") funds have been unable to provide financing for the Hall of Pioneers Chinese Garden Improvement Project in the period 2009-2011, and therefore no other reasonable means of financing the Hall of Pioneers Chinese Garden Improvement Project is available to the City other than Redevelopment Agency funding;
3. That the use of tax increment funds from the Central District Project Area for the Hall of Pioneers Chinese Garden Improvement Project will assist in the elimination of blight in the Central District by remediating contaminated property and otherwise improving a substandard park facility in the Central Redevelopment Project Area; and
4. That the use of tax increment funds from the Central District Redevelopment Project Area for the Hall of Pioneers Chinese Garden Improvement Project is consistent with the implementation plan adopted for the Central District Redevelopment Project Area; and be it

**FURTHER RESOLVED:** That the Agency Administrator or his designee is hereby authorized to take whatever action is necessary with respect to the Hall of Pioneers Chinese Garden Improvement Project consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

**PASSED BY THE FOLLOWING VOTE:**

AYES-           BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
                  CHAIRPERSON BRUNNER

NOES-

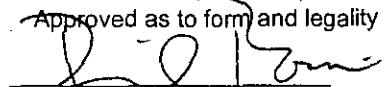
ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
          La Tonda Simmons  
          Secretary, Redevelopment Agency  
          of the City of Oakland, California

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 SEP -3 AM 9:09

Approved as to form and legality  
  
Deputy City Attorney

## OAKLAND CITY COUNCIL

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

---

**RESOLUTION AUTHORIZING THE CITY TO ACCEPT AND APPROPRIATE A CONTRIBUTION OF REDEVELOPMENT AGENCY FUNDS UNDER THE COOPERATION AGREEMENT IN THE AMOUNT OF \$92,000 FOR THE CONSTRUCTION OF THE HALL OF PIONEERS CHINESE GARDEN IMPROVEMENT PROJECT**

**WHEREAS;** the Redevelopment Agency of the City of Oakland wishes to fund construction costs to assist in the Hall of Pioneers Chinese Garden Improvement Project in the Central District Redevelopment Project Area, and has authorized a contribution of \$92,000 to the Project; and

**WHEREAS,** the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Redevelopment Agency financial contributions and other assistance to support City public improvements; and

**WHEREAS,** Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the installation cost or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; now, therefore, be it

**RESOLVED:** That the City Council hereby accepts and consents to the use of up to \$92,000 in Redevelopment Agency funds for the Hall of Pioneers Chinese Garden Improvement Project, and appropriates such funds to the Project; and be it

**FURTHER RESOLVED:** That such funds shall be appropriated by the City into Redevelopment Agency Fund (7780), Hall of Pioneers Chinese Garden Improvement Project (P338510), Project Management Capital Improvement Organization (92270), Landscape Improvement Account (57112), Project Delivery Program (IN06) for the Hall of Pioneers Chinese Garden Improvement Project; and be it

**FURTHER RESOLVED:** That the City Council hereby finds and determines as follows:

1. That the funding of the Hall of Pioneers Chinese Garden Improvement Project will benefit the Central District Redevelopment Project Area by installing needed park

improvements, including new ADA parking facilities and pathways, new irrigation and lawn and new plants and trees, and otherwise alleviating substandard park conditions, which will benefit residents, business owners and property owners in the Central District who are the principal users of the park;

2. That due to fiscal constraints on the City's general fund and the high number of capital projects competing for limited City funds, the City's Capital Improvement Program ("CIP") funds have been unable to provide financing for the Hall of Pioneers Chinese Garden Improvement Project in the period 2009-2011, and therefore no other reasonable means of financing the Hall of Pioneers Chinese Garden Improvement Project is available to the City other than Redevelopment Agency funding;
3. That the use of tax increment funds from the Central District Project Area for the Hall of Pioneers Chinese Garden Improvement Project will assist in the elimination of blight in the Central District by remediating contaminated property and otherwise improving a substandard park facility in the Central Redevelopment Project Area; and
4. That the use of tax increment funds from the Central District Redevelopment Project Area for the Hall of Pioneers Chinese Garden Improvement Project is consistent with the implementation plan adopted for the Central District Redevelopment Project Area; and be it

**FURTHER RESOLVED:** That the City Administrator or his designee is hereby authorized to take whatever actions necessary with respect to this Project consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

**PASSED BY THE FOLLOWING VOTE:**

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

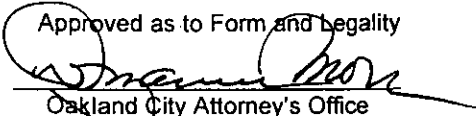
NOES-

ABSENT-

ABSTENTION-

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2009 SEP -3 AM 9:09

Approved as to Form and Legality  
  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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

---

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HIS DESIGNEE, TO AWARD A CONTRACT TO THE LOWEST, RESPONSIBLE, RESPONSIVE BIDDER, MCGUIRE AND HESTER, IN AN AMOUNT NOT-TO-EXCEED TWO HUNDRED ELEVEN THOUSAND SEVEN HUNDRED SIXTY-FIVE DOLLARS (\$211,765.00) FOR THE CONSTRUCTION OF THE HALL OF PIONEERS CHINESE GARDEN IMPROVEMENT PROJECT IN ACCORD WITH PLANS AND SPECIFICATIONS FOR THE PROJECT (NO. P338510) AND CONTRACTOR'S BID THEREFOR, TO BE PAID FOR WITH REDEVELOPMENT AGENCY FUNDS**

**WHEREAS**, on June 18, 2009, four bids were received by the Office of the City Clerk of the City of Oakland for the Construction of Hall of Pioneers Chinese Garden Improvement Project (No. P338510); and

**WHEREAS**, McGuire and Hester as a certified LBE bidding as a prime is the lowest responsible, responsive bidder for the project; and

**WHEREAS**, the Redevelopment Agency Board has authorized a transfer of funds to the City of Oakland to pay for this contract; and

**WHEREAS**, Oakland Municipal Code 2.04.020.B requires Council approval of construction contracts in excess of \$50,000 when Redevelopment Agency funds will be used to pay for the contract; and

**WHEREAS**, there are sufficient funds in Fund 7780, Project No. P338510, for the contract work; and

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

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

**WHEREAS**, McGuire and Hester complies with all LBE/SLBE 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 services; now, therefore, be it

**RESOLVED:** That the contract for the construction of Hall of Pioneers Chinese Garden Improvement Project (Project No.P338510) is hereby awarded to McGuire and Hester in accordance with the terms of its bid therefore, dated June 18, 2009, for the amount of two hundred eleven thousand seven hundred sixty-five dollars (\$211,765.00), to be paid for with Redevelopment Agency funds; and be it

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

**FURTHER RESOLVED:** That the Council hereby approve the plans and specifications for this project; and be it

**FURTHER RESOLVED:** That the faithful performance bond and a bond to guarantee payment of all claims for labor and materials furnished and for the amount of 100% of the contract price and due under the Unemployment Insurance Act submitted with respect to such work are hereby approved; and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator, or his designee, to enter into a contract, execute any amendments or modifications to said agreement within the limitations of the project specifications; 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; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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