

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
Council District: All
2004 MAY 27 PM 5: 51

To: Office of the City Manager
Attn: Deborah Edgerly
From: Public Works Agency
Date: June 8, 2004

Re: RESOLUTION AUTHORIZING AWARD OF A CONSTRUCTION CONTRACT TO MCGUIRE AND HESTER FOR RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NO. C234930) IN THE AMOUNT OF \$3,928,797.40

SUMMARY

Staff recommends Council approval of a resolution authorizing the City Manager to award a construction contract to McGuire and Hester for the resurfacing of certain streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930) in the Amount of \$3,928,797.40.

This street resurfacing project meets the following Mayor/Council Goals and Citywide Objectives:

- **Improve Oakland Neighborhood** – Improve traffic, bicycle, and pedestrian safety.
- **Maintain and Enhance Oakland’s Physical Assets** – Provide for clean, well-maintained and accessible streets and sidewalks.

FISCAL IMPACT

The engineer’s estimate for the construction work is \$4,439,298.00 and the construction contract will be in the amount of \$3,928,797.40. Funding comes from Measure B (ACTIA). Sufficient funds are available for the construction work in Fund 2211, Organization 92480, Account 57411, and Project C234930. Funds have been set aside for Contract Compliance and will be transferred into Fund 2211, Organization 92480, Account 56918, and Project C234930 upon award. The 1.5 percent assessment for public arts was not allowed as part of this grant.

BACKGROUND

On January 5, 2004, the City Clerk received four bids for the project as shown on *Attachment A*. The project consists of the resurfacing of approximately 15 centerline miles of streets. The streets scheduled to be resurfaced with their current pavement condition index (PCI) are shown on *Attachment B*. The City uses a pavement management system to determine which streets are candidates for repairs. Resurfacing is based on each street’s PCI. The street resurfacing projects are also coordinated with other projects (e.g.: sewer rehabilitation projects) so the streets will not be cut into for any underground projects. By approving this resolution, City Council will be approving the specific streets listed in Attachment B to be resurfaced under this contract. See *Attachment F* for a summary of the City’s pavement management system and prioritization method.

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KEY ISSUES AND IMPACTS

Construction work is scheduled to begin in June 2004 and will be completed by July 2005. The contract specifies \$500 in liquidated damages per calendar day if the contractor exceeds the contract completion time of 260 working days. The project schedule is shown on *Attachment A*.

ACTIA's Local/ Small Local Business Enterprise program was used for this project. ACTIA requires that its LBE/SLBE program be used on all of their sponsored projects. ACTIA's goals are sixty percent Local Business Enterprise of which twenty percent must be Small Local Business Enterprise, which exceeds the City's requirements. McGuire and Hester's SLBE participation was 18.5% and the LBE participation was 78.6% at the time of the bid opening. The Good Faith Efforts were reviewed by ACTIA and it was determined that McGuire and Hester's Good Faith Effort did not meet ACTIA's LBE/SLBE goals. The LBE/SLBE information at the time of bid opening has been verified by the Contract Compliance Division of the City Manager's Office and is shown in *Attachment C*. Under ACTIA's LBE/SLBE program, the Prime Contractor may appeal the rejection of its bid to the Good Faith Effort Review Committee. The ACTIA LBE/SLBE Program further specifies that the Committee will review the decision to award a contract based on Good Faith Effort when the LBE/SLBE Goals are not met and the Committee's decision on the Prime Contractor's Good Faith Effort shall be final.

McGuire and Hester was notified by the City of Oakland on March 25, 2004 that they did not meet the LBE/SLBE goals and that their good faith effort was not satisfactory. After receiving notification from the City, McGuire and Hester submitted a written protest of the results on March 26, 2004 to the City and ACTIA. The Good Faith Effort Review Committee was formed by ACTIA in accord with ACTIA's LBE/SLBE Program. The Committee consisted of an Authority Board Member, an Authority Staff Member, and a City Representative. The hearing was held on April 20, 2004. The Committee ruled that McGuire and Hester did provide a Good Faith Effort. The Good Faith Effort Review Committee ruling from April 20, 2004 is shown in *Attachment D*.

Following the April 20, 2004 hearing Gallagher and Burk, Inc. (the second lowest bidder) requested an opportunity to present evidence regarding McGuire and Hester's good faith efforts. In response to this request a continued hearing was held on May 18, 2004. The continued Good Faith Effort Review Committee again ruled that McGuire and Hester did provide a Good Faith Effort. The Good Faith Effort Review Committee ruling from May 18, 2004 is shown in *Attachment E*.

One of McGuire and Hester's subcontractors, Union City Construction, was not certified at the time of bid opening but has since been certified (March 18, 2004) by ACTIA as an SLBE. The addition of Union City Construction as an SLBE, brings McGuire and Hester into compliance with ACTIA's LBE/SLBE goals. They now have participation levels of 21.3% SLBE and 78.6% LBE. The current total LBE/SLBE participation level is 100%.

The second lowest bidder, Gallagher and Burk Inc.'s bid was \$63,592 (1.6% of the total contract amount) higher than the lowest bidder and was under the engineer's estimate. They also met the ACTIA LBE/SLBE goals at the time of bid opening (20.2% SLBE and 79.7% LBE). The table

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on the following page shows a comparison of the two lowest bidders and the LBE/SLBE percentages.

	McGuire and Hester		Gallagher and Burk, Inc.	
Bid Amount	\$3,928,797		\$3,992,389	
	January 5, 2004	March 18, 2004	January 5, 2004	March 18, 2004
SLBE Participation	18.5	21.3	20.2	20.2
LBE Participation	78.6	78.6	79.7	79.7
Total Participation	97.1	100	100	100

SUSTAINABLE OPPORTUNITIES

Economic: All public works contracts require prevailing rate of wages. Prevailing wages offer a livable wage rate for workers and can contribute to an increased quality of life. The \$3,928,797 of funds from this contract will turn over in the community and help to stimulate the economic base.

Environmental: New asphalt pavement contains as much as 15% recycled asphalt. This project also uses rubberized asphalt on certain streets. A two inch rubberized asphalt overlay contains approximately 2,000 tires per lane mile. It is estimated that over 35,000 recycled tires will be used for this project.

Social Equity: ACTIA’s goals reflect the social equity policies of the City of Oakland whereby the inclusion of small local firms and Oakland residents are afforded access to contracting and employment opportunities. The City uses a pavement management system to determine which streets are candidates for repairs. Resurfacing is based on each street’s pavement condition index (PCI).

DISABILITY AND SENIOR CITIZEN ACCESS

Street resurfacing will eliminate potholes and provide a uniform travel surface for pedestrians using crosswalks.

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RECOMMENDATION AND RATIONALE

It is recommended that the City Manager be authorized to award a construction contract to McGuire and Hester for the resurfacing of certain streets in the City of Oakland for fiscal year 2003-2004 (Project No. C234930) in the amount of \$3,928,797.40. McGuire and Hester was the lowest responsible responsive bidder and has complied with the LBE/SLBE goals.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



RAUL GODINEZ II
Director, Public Works Agency

Reviewed by:
Brooke A. Levin
Interim Assistant Director, Public Works Agency
Maintenance Services Department

Prepared by:
Dwight A. Chambers
Operations Manager, Public Works Agency
Street and Sidewalk Maintenance

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE


OFFICE OF THE CITY MANAGER

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Attachment A

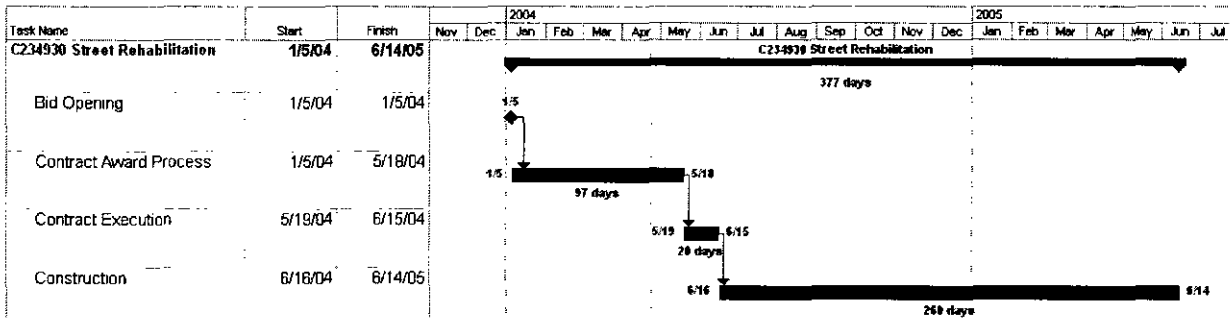
Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

(Project C234930)

List of Bidders

Company	Status	Location	Bid Amount
McGuire & Hester	Local Business	Oakland	\$ 3,928,797
Gallagher & Burk, Inc.	Local Business	Oakland	\$ 3,992,389
Granite Construction Company	Uncertified	Watsonville	\$ 4,300,482
Ghilotti Construction Company	Uncertified	Santa Rosa	\$ 4,313,384

Project Schedule



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Attachment B
Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004
Pavement Resurfacing Locations
(Pavement Condition Index is based on 1998 Survey)

	STREET	FROM	TO	RESURFACING METHOD	AREA (SY)	DIST	PCI
1	11TH ST	BROADWAY	MADISON ST	2" MILL & 2" RUBBER	16,618	2	41
2	12TH AV	E 8TH ST	E 20TH ST	1 1/2" OVERLAY	9,270	2	35
3	13TH ST	BROADWAY	FALLON ST	1 1/2" OVERLAY	15,098	2	41
4	17TH AV	E 19TH ST	E 24TH ST	1 1/2" OVERLAY	8,120	2	28
5	29TH ST	HARRISON ST	TELEGRAPH AV	1 1/2" OVERLAY	10,274	3	17
6	3RD ST	OAK ST	LINDEN ST	1 1/2" OVERLAY	34,944	3	30
7	41ST ST	42ND ST	TELEGRAPH AV	1 1/2" OVERLAY	1,544	1	23
8	41ST ST	BROADWAY	TELEGRAPH AV	1 1/2" OVERLAY	9,312	1	76
9	42ND ST	ML KING WY	CITY LIMIT	1 1/2" OVERLAY	8,967	1	35
10	52ND ST	MARKET ST	WEST ST	1 1/2" OVERLAY	4,001	1	23
11	5TH ST	OAK ST	HARRISON ST	2" MILL & FILL	8,048	3	69
12	82ND AV	MACARTHUR BL	SUNKIST DR	1 1/2" OVERLAY	7,627	6	12
13	BOSTON AV	MACARTHUR BL	BRIDGE	1 1/2" OVERLAY	2,037	4	53
14	BOSTON AV	MACARTHUR BL	EAST END	1 1/2" OVERLAY	1,580	4	12
15	BRUNS CT	LA SALLE AV	NORTH END	2" MILL & FILL	1,544	4	50
16	BULLARD DR	ESTATES DR	ESTATES DR	1 1/2" OVERLAY	5,240	4	47
17	CHELTON DR	ELDERBERRY DR	EXTER DR	2" MILL & FILL	1,237	4	33
18	COOLIDGE AV	BROOKDALE AV	MACARTHUR BV	2" MILL & 2" RUBBER	10,003	4 & 5	40
19	DONNA WY	ELYSIAN FIELDS	ELYSIAN FIELDS	1 1/2" OVERLAY	5,636	7	23
20	DORAN DR	AITKEN DR	BANNING DR	1 1/2" OVERLAY	1,320	4	18
21	E 17TH ST	FRUITVALE AV	NORTH END	1 1/2" OVERLAY	2,273	5	23
22	E 18TH ST	FRUITVALE AV	NORTH END	1 1/2" OVERLAY	980	5	33
23	EDES AV	HEGENBERGER RD	85TH AV	1 1/2" OVERLAY / 2" MILL & FILL	10,168	7	20
24	EL DORADO AV	FAIRMOUNT AV	BAYO VISTA AV	1 1/2" OVERLAY	3,512	1	30
25	FOOTHILL BL	35TH AV	HIGH ST	2" RUBBER OVERLAY	15,751	5	59
26	FOOTHILL BL	FRUITVALE AV	35TH AV	2" RUBBER OVERLAY	5,249	5	59
27	FOOTHILL BL	HIGH ST	55TH AV	2" RUBBER OVERLAY	27,912	5 & 6	53
28	FOX HILL CT	CT	EAST END	1 1/2" OVERLAY	838	7	21
29	GOLF LINKS RD	FONTAINE ST	98TH AV	2" RUBBER OVERLAY	9,147	7	35
30	GRASS VALLEY RD	SKYLINE BL	GOLF LINKS RD	1 1/2" OVERLAY	8,600	7	36
31	HADDON RD	PARK BL	HILGGIRT CIR	1 1/2" OVERLAY	9,152	2	69
32	HERRIER ST	NORTON AV	VICTOR AV	1 1/2" OVERLAY	3,524	4	69
33	HOLLY ST	70TH AV	90TH AV	1 1/2" OVERLAY	19,868	6 & 7	55
34	LAS VEGAS AV	98TH AV	WEST END	2" MILL & FILL	1,543	7	62
35	LEE ST	GRAND AV	VAN BUREN AV	1 1/2" OVERLAY	2,478	3	16

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36	REDWOOD RD	CRESTMONT DR	SKYLINE BL	2" MILL & 2" RUBBER	12,739	4 & 6	55
37	REDWOOD RD	HWY 13	CRESTMONT DR	2" MILL & 2" RUBBER	22,517	4 & 6	40
38	SHEPHERD CYN RD	SKYLINE BL	AITKEN DR	2" MILL & 2" RUBBER	3,893	4	33
39	SONOMA WAY	20TH AV	SOUTH END	1 1/2" OVERLAY	1,394	2	36
40	STEARNS AV	9555 STEARNS AV	BURR ST	1 1/2" OVERLAY	768	7	30
41	VALE AV	BAYO ST	HARBORD VIEW DR	1 1/2" OVERLAY	3,817	4	20
42	WELLINGTON ST	PARK BL	CANNON AV	2" MILL & FILL	4,556	5	36
43	WOODLAND PL	BROADWAY TERR	SOUTH END	2" MILL & FILL	734	1	53
44	YORK ST	PRINCE ST	MANDANA BL	2" MILL & FILL	2,194	2	23

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June 1, 2004

**Contract Compliance and
Employment Services Division
Office of the City Manager**

Memorandum

Date: January 23, 2004
From: Deborah Barnes, CC&ES Manager *Deborah Barnes*
To: Gwen McCormick, PWA Contract Administration Supervisor
Regarding: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 -
Project# C234930 with Alameda County Transportation Improvement Authority
(ACTIA) goals.

Contract Compliance & Employment Services reviewed three of the lowest bids for the above referenced project. Maguire & Hester the low bidder did not meet the L/SLBE ACTIA goal and did not meet the good faith effort defined by ACTIA. Gallagher & Burk the second lowest bidder met the L/SLBE ACTIA goal and Granite posted 9.7 percent SLBE only and did not meet the L/SLBE ACTIA goal as listed below:

Company Name	LBE	SLBE	Total
McGuire & Hester	78.6%	18.5%	97.1%
Gallagher & Burk	79.7%	20.2%	100%
Granite Construction	0%	9.7%	9.7%

CC: Attachments



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION
OFFICE OF THE CITY MANAGER
Attachment C

Contract Compliance Evaluation Form

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: McGuire & Hester

Contractor's bid amount: \$3,928,797

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount: =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
ADJUSTED LBE % TOTAL:	ADJUSTED BID TOTAL: \$3,928,797

1. Did the Contractor meet the LBE/SLBE goals? **No**
 - a) % of LBE participation 78.68%
 - b) % of SLBE participation 18.53%
2. Did the Contractor meet the Trucking goal? **NA** (Trucking goal not specified by ACTIA)
 - a) % of local trucking participation 100%
3. If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements? **No**
(If no, explain reasons for failure to meet GFE.)
Alameda County Transportation Improvement Authority (ACTIA) provided the Good Faith Effort review. See attached.
4. Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/22/2004
5. Is the contractor in compliance with all LBE/SLBE requirements? **No** (If no, explain below)
Good Faith Effort was unsatisfactory.

Reviewing Officer: _____

Date: 1/22/2004

Approved By: Deborah Barnes

Date: 1/22/04



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION
OFFICE OF THE CITY MANAGER

Attachment C

Contract Compliance Evaluation Form

REVISED

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: Gallagher & Burk, Inc.

Contractor's bid amount: \$3,992,389 ~~389~~ *389*

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
ADJUSTED LBE % TOTAL:	ADJUSTED BID TOTAL: <u>\$3,992,389</u> <i>389</i>

- Did the Contractor meet the LBE/SLBE goals? Yes
 - % of LBE participation 79.71%
 - % of SLBE participation 20.29%
- Did the Contractor meet the Trucking goal? NA (Trucking Goals not specified as ACT goals)
 - % of local trucking participation 100%

If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements? NA
(If no, explain reasons for failure to meet GFE.)

- Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/23/2004
- Is the contractor in compliance with all LBE/SLBE requirements? Yes (If no, explain below)

Reviewing Officer: *[Signature]* Date: 1/23/2004

Approved By: *[Signature]* Date: _____



CONTRACT COMPLIANCE AND EMPLOYMENT SERVICES DIVISION
OFFICE OF THE CITY MANAGER

Attachment C

Contract Compliance Evaluation Form

Project No.: C234930

Project Name: Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004

Bid Opening Date: 1/5/2004

Engineer Estimate: \$4,439,298

Contractor: Granite Construction

Contractor's bid amount: \$4,300,482

5% credit for LBE/SLBE Preference: <input type="checkbox"/>	5% of the TOTAL BID Amount: =
5% credit for Joint Venture Preference: <input type="checkbox"/>	Calculation Amount: X 5% =
5% credit for Mentor Protégé Preference: <input type="checkbox"/>	If yes, 5% is added to the overall Total LBE percentage goal.
ADJUSTED LBE % TOTAL:	ADJUSTED BID TOTAL: \$4,300,482

- Did the Contractor meet the LBE/SLBE goals? **No**
 - % of LBE participation 0.00%
 - % of SLBE participation 9.79%
- Did the Contractor meet the Trucking goal? **NA**
 - % of local trucking participation 100%
- If the goals were not met, did the contractor meet the Good Faith Effort (GFE) requirements? **No**
 (If no, explain reasons for failure to meet GFE.) Trucking goal not specified by ACTIA goal
Contractor did not submit a good faith effort.
- Date evaluation completed and forwarded to Contract Admin./Initiating Dept. 1/23/2004
- Is the contractor in compliance with all LBE/SLBE requirements? **No** (If no, explain below)
Contractor did not submit a good faith effort.

Reviewing Officer:

[Signature]

Date: 1/23/2004

Approved By:

[Signature]

Date: 1/23/2004



426 17th Street
Suite 100
Oakland, CA 94612

April 22, 2004

Telephone:
510/893-3347

Mr. Raul Godinez II,
Public Works Director
City of Oakland
250 Frank Ogawa Plaza
Oakland, CA

Facsimile:
510/893-6489

Webpage:
www.ACTIA2022.com

Subject: Oakland Local Streets Resurfacing Project (ACTIA No. 16)
City Project No. C234930 -- McGuire & Hester Bid

Nate Miley, Chair
Supervisor, District 4

Dear Mr. Godinez:

Roberta Cooper, Vice-Chair
Mayor, City of Hayward

This letter is the formal report of the results of the ACTIA Good Faith Review Committee hearing concerning the appeal by McGuire & Hester of the determination that it had not made a good faith effort to meet the ACTIA Small Local Business Enterprise ("SLBE") Goal of 20% participation for City of Oakland Project No. C234930 for resurfacing of certain Oakland City Streets in 2003/2004. The Good Faith Review Committee consisted of Miriam Hawley, an ACTIA Board Member, Lennon Harris, a Port of Oakland employee appointed by Oakland, and Arthur Dao, ACTIA Deputy Director as an ACTIA staff member.

Tom Bates
Mayor, City of Berkeley

Keith Carson
Supervisor, District 5

Henry Chang, Jr.
Vice Mayor, City of Oakland

The Committee conducted a hearing on April 20, 2004, and heard presentations from ACTIA staff, from Mason Tillman & Associates, ACTIA's affirmative action consultant and from representatives of McGuire & Hester. The Committee unanimously decided that on the basis of the total evidence presented, McGuire & Hester did demonstrate good faith efforts in meeting the SLBE goal for this contract. This decision was based on the following: (i) McGuire & Hester had been determined to have met 8 of the 12 objective criteria for demonstration of a Good Faith Effort prior to the hearing, (ii) at the hearing McGuire & Hester presented satisfactory evidence of good faith efforts in at least two additional categories (Negotiation in good faith and Not rejecting LBEs and SLBEs without sound reasons), (iii) McGuire & Hester had achieved 18.5% SLBE participation at bid opening, (iv) 4 out of 5 subcontractors listed at bid opening were certified SLBEs and (v) McGuire & Hester will in fact have 21.3% SLBE participation counting the participation of Union City Construction which was certified as an SLBE after bid opening and prior to the hearing, as well as other facts presented at the hearing.

Mark Green
Mayor, City of Union City

Scott Haggerty
Supervisor, District 1

Alice Lai-Bitker
Supervisor, District 3

Gus Morrison
Mayor, City of Fremont

Gail Steele
Supervisor, District 2

Shelia Young
Mayor, City of San Leandro

Christine Monsen
Executive Director

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ORA/COUNCIL
JUN 1 2004

Mr. Raul Godinez II
April 22, 2004
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Based on this decision, which is final pursuant to the ACTIA LBE and SLBE Program, McGuire & Hester is a responsive bidder regarding the LBE/SLBE goals and if otherwise qualified should be awarded the contract as the low bidder.

If you have any questions regarding this letter, please contact me or Arthur Dao, Deputy Director, at (510) 893-3347.

Sincerely,



CHRISTINE E. MONSEN
Executive Director

cc: Zach Wasserman, Authority's Legal Counsel -- Wendel Rosen Black & Dean
Jaime Heredia, Project Manager -- City of Oakland
Dwight Chambers, Operations Manager -- City of Oakland
Deborah Barnes, Contract Compliance Manager -- City of Oakland
Rocio Fierro, Deputy City Attorney -- City of Oakland
Eric Cordoba, ACTIA Project Controls
Tommy Smith, Project Manager -- Mason Tillman Associates
Arthur L. Dao, Deputy Director -- ACTA/ACTIA
Anees Azad, Finance and Administration Manager -- ACTA/ACTIA
Lennon Harris -- Port of Oakland
Miriam Hawley -- City of Berkeley
ACTIA File 16.7.1
Chron File

FILE
16, 11



426 17th Street
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May 21, 2004

Mr. Raul Godinez II,
Public Works Director
City of Oakland
250 Frank Ogawa Plaza
Oakland, CA

Subject: Oakland Local Streets Resurfacing Project (ACTIA No. 16)
City Project No. C234930 -- McGuire & Hester Bid

*Nate Miley, Chair
Supervisor, District 4*

Dear Mr. Godinez:

*Roberta Cooper, Vice-Chair
Mayor, City of Hayward*

This letter is the formal report of the results of the continued ACTIA Good Faith Review Committee hearing concerning the McGuire & Hester's good faith efforts to meet the ACTIA Small Local Business Enterprise ("SLBE") Goal of 20% participation for City of Oakland Project No. C234930 for resurfacing of certain Oakland City Streets in 2003/2004. The Good Faith Review Committee consisted of Miriam Hawley, an ACTIA Board Member, Lennon Harris, a Port of Oakland employee appointed by Oakland, and Arthur Dao, ACTIA Deputy Director as an ACTIA staff member.

*Tom Bates
Mayor, City of Berkeley*

*Keith Carson
Supervisor, District 5*

*Henry Chang, Jr.
Vice Mayor, City of Oakland*

*Mark Green
Mayor, City of Union City*

As you know this Committee conducted a hearing on April 20, 2004. Following that hearing the firm of Gallagher and Burk, Inc., the second lowest bidder on this project, requested the opportunity to present evidence regarding McGuire & Hester's good faith efforts to meet the SLBE goal because it had not received notice of the original hearing on the 20th. In response to this request, a continued hearing was held on May 18th by the same Committee. Notice of this continued hearing was sent to all bidders and all subcontractors listed for the project. The Committee heard evidence and arguments from Gallagher and Burk, Inc., from Ola Grimes of Ola's Trucking and from McGuire & Hester.

*Scott Haggerty
Supervisor, District 1*

*Alice Lai-Bitker
Supervisor, District 3*

*Gus Morrison
Mayor, City of Fremont*

*Gail Steele
Supervisor, District 2*

Gallagher and Burk, Inc. raised a variety of issues including questioning whether the dollars counted by ACTIA for Monroe Trucking as an SLBE was correct, what outreach McGuire & Hester had actually made to some of the SLBE subcontractors listed on their bid, whether Union City Construction which had been certified as an SLBE after bid opening could be counted in any way, whether McGuire & Hester's advertising for SLBE subcontractors was sufficient, whether McGuire & Hester's phone calls to potential SLBE subcontractors was sufficient and whether in the entire context McGuire & Hester had demonstrated actively and aggressively sought to meet the SLBE goal for this project. McGuire & Hester responded on each issue raised.

*Shelia Young
Mayor, City of San Leandro*

*Christine Monsen
Executive Director*

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As to the issue of counting all of the Monroe Trucking bid as SLBE, ACTIA followed the long standing ACTA/ACTIA practice that since only first tier subcontractors are listed on bid forms pursuant to state bidding requirements, if the listed trucking subcontractor is an SLBE, all the dollars allocated to that subcontractor will count for purposes of calculating the goal. The Committee appreciated the comments of both Gallagher and Burk and McGuire & Hester regarding the practical issue that there is a relatively small group of truckers available for this kind of work in Alameda County with the result that all trucking brokers use the same basic pool of truckers and that at the time of the bid there is no way to guarantee that all the second tier truckers will be SLBE even though the broker/trucker listed on the bid is certified as an SLBE. The Committee referred this issue to ACTIA staff to review as part of the overall review that will be conducted of the ACTIA LBE/SLBE Program.

As to the issue of counting Union City Construction as an SLBE, the Committee determined that they could not be counted for determining whether or not McGuire & Hester had met the SLBE goal since the City of Oakland's bid documents did not clearly indicate that certification after bid opening could be considered on a case by case basis, as provided in ACTIA's LBE/SLBE Program. However, the Committee could and did take into consideration that Union City Construction was certified as an SLBE after the bid opening and therefore all of McGuire & Hester's subcontractors are SLBE and that the Program's goal of 20% SLBE would be exceeded, with 21.3% SLBE, by McGuire & Hester.

On the other issues raised by Gallagher and Burk, the Committee unanimously determined that while several important questions were raised, the overall evidence confirmed that McGuire & Hester had demonstrated that they made a good faith effort to meet the SLBE goals.

Based on this decision, which is final pursuant to the ACTIA LBE and SLBE Program, McGuire & Hester is a responsive bidder regarding the LBE/SLBE goals and if otherwise qualified should be awarded the contract as a low bidder.

If you have any questions regarding this letter, please contact me or Arthur Dao, Deputy Director, at (510) 893-3347.

Sincerely,


CHRISTINE E. MONSEN
Executive Director

Mr. Raul Godinez II
May 21, 2004
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Attachment E

cc: Zach Wasserman, Authority's Legal Counsel -- Wendel Rosen Black & Dean
Jaime Heredia, Project Manager -- City of Oakland
Dwight Chambers, Operations Manager -- City of Oakland
Deborah Barnes, Contract Compliance Manager -- City of Oakland
Rocio Fierro, Deputy City Attorney -- City of Oakland
Eric Cordoba, ACTIA Project Controls
Tommy Smith, Project Manager -- Mason Tillman Associates
Arthur L. Dao, Deputy Director -- ACTA/ACTIA
Anees Azad, Finance and Administration Manager -- ACTA/ACTIA
Lennon Harris -- Port of Oakland
Miriam Hawley -- City of Berkeley
ACTIA File 16.7.1
Chron File

STREETS

General Facts

The city street network consists of 836 centerline (total length of a street) miles. The Capital Improvement Program for streets is a maintenance program critical to maintaining the integrity of these assets. It does not include street widening in anticipation of future growth.

Prioritization Method

The City's Pavement Management System (PMS) is used to rank the city streets by Pavement Condition Index (PCI) based on a visual inspection. The PCI is a numerical scale from 0-100 with 100 being the best. The system then determines the total Citywide need and recommends streets for rehabilitation based on a constrained budget.

Specifically, the PMS recommendations are based on the cost-effectiveness to rehabilitate the streets. The lower the PCI ranking, the more costly it is to bring the street back into excellent condition. Thus, the PMS attempts to prevent streets from slipping into lower condition categories. When given a constrained budget, the PMS recommends streets for rehabilitation that are at the lower end of the "good" and "fair" conditions first. If there are remaining funds, it recommends streets that are at the bottom of the "poor" and "very poor" condition categories.

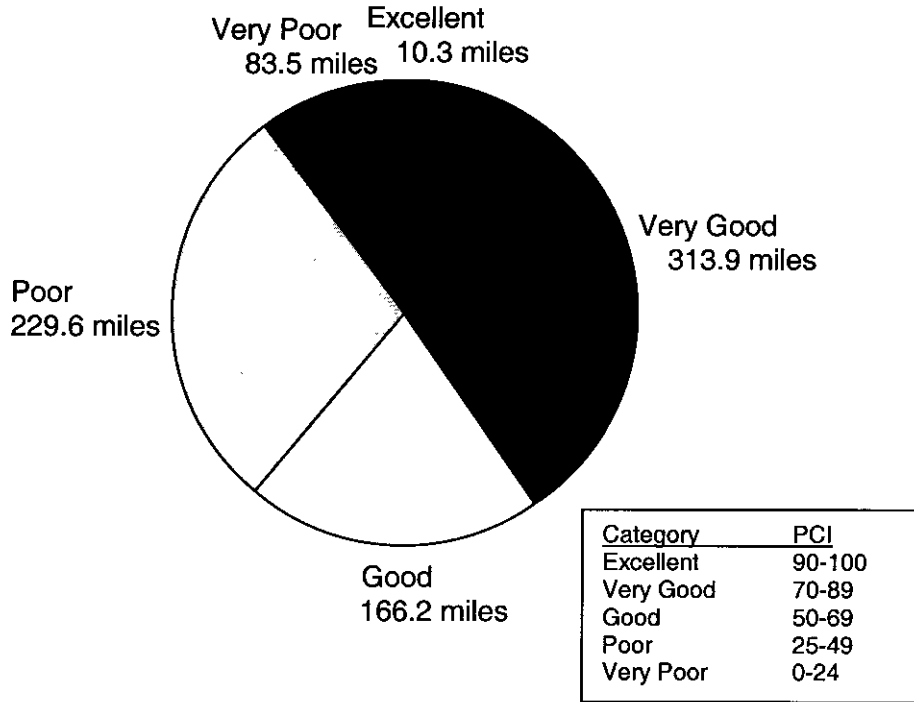
Both the PMS software and visual inspections are in the process of being updated. The software system is being converted from the Infrastructure Management System (IMS) to the Metropolitan Transportation Commission (MTC) Pavement Management System. The new system will allow comparisons to most other bay area jurisdictions. Our current inspection data is over six (6) years old and outdated. Staff is currently in the process of updating this information and hopes to have the entire city inspected by the spring of 2005. MTC requires that all cities and counties submitting pavement maintenance and rehabilitation projects for funding to utilize a Pavement Management System. In order to be certified as a user, a jurisdiction must inspect all arterial and collector streets every two years and residential streets every five years.

Needs Assessment

Street resurfacing is currently at an **85-year** paving cycle. (A best practice is a 25-year cycle.) High incidence of deteriorating streets and potholes Citywide is the result of years of deferred maintenance and crew reductions due to constrained budgets. An under-funded street resurfacing program and deferred maintenance have resulted in a significant amount of base repair on current street resurfacing contracts (as much as half of contract amount), resulting in significantly fewer streets being resurfaced annually. Adequate funding for implementation of an aggressive preventive maintenance program is urgently needed. Currently, there is only one paving crew for the entire city.

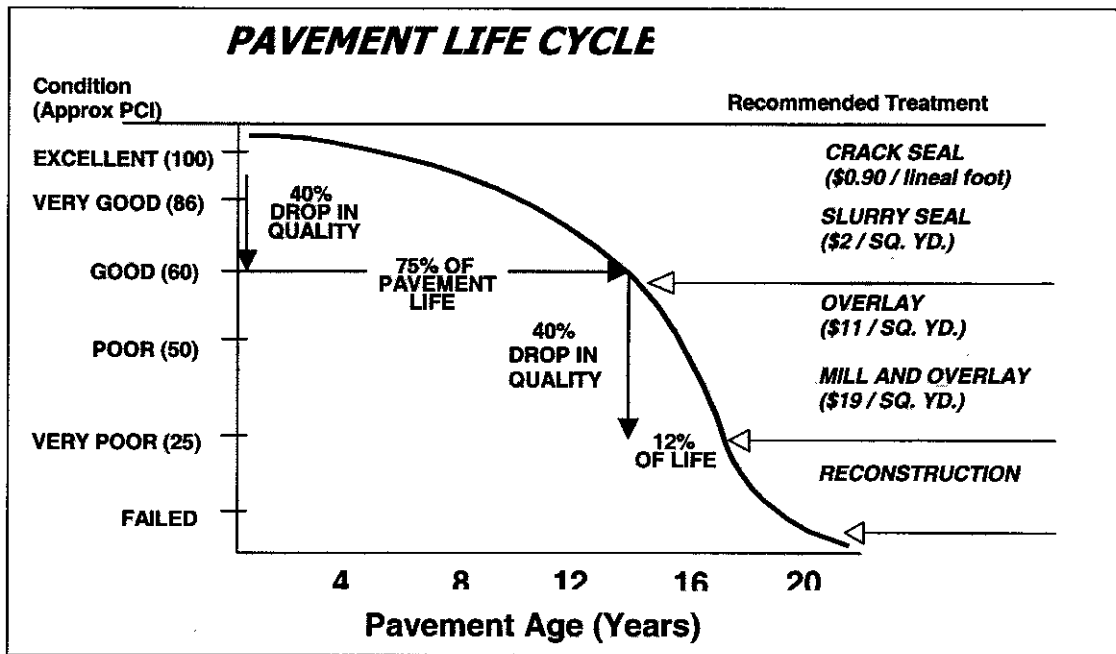
The pie chart below shows the current condition of the city streets. The information is based on the last street inspection data, which is over six years old. Ten percent (10%) or 83.5 miles is in Very Poor condition, 29% (229.6 miles) in Poor condition, 21% (166.2 miles) in Good condition, 39% (313.9 miles) in Very Good condition, and 1% (10.3 miles) in Excellent condition. The remaining 32.5 centerline miles of the City's street network is unpaved.

Street Centerline Mileage by Condition



The total 25-year needs for pavement rehabilitation required to bring and maintain the City's pavement network to an optimum condition is just over \$665 million, or an average of \$26.6 million per year. An additional \$1.2 million per year is required for preventative maintenance. Preventative maintenance, (e.g., slurry seal and crack seal), if done properly, can extend the life of the pavement as much as rehabilitation, at approximately half the cost.

The graphic below illustrates the benefits of an aggressive preventative maintenance program as opposed to following a “worst first” scenario. The overall program is dynamic in that each strategy consists of a cyclic series of actions that simulates the pavement’s anticipated life cycle. A typical pavement section will deteriorate approximately 40% in the first 75% of its lifespan. However, that same pavement section, if untreated, will experience another 40% reduction in overall quality in only the next 12% of lifespan, effectively deteriorating an equivalent amount in only one-sixth (1/6) the time. As a result of this continued deterioration, the quantity and cost of the maintenance activities needed to rehabilitate the pavement will increase in both scope and costs. In other words, it is not simply “pay today or pay tomorrow,” but rather “pay today or pay more tomorrow.”



Resources

The following table shows the historical budgets for streets:

Streets	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05
Measure B Pass-Through	2,600,000	2,600,000	2,600,000	7,500,000		243,000	100,000	200,000	540,000
State Gas Tax	200,000								
Municipal Improvement Capital	1,000,000			1,000,000	1,500,000	1,000,000	1,000,000	400,000	
One-time grants and allocations		400,000	400,000			2,112,000	870,000	5,278,000	
Totals	3,800,000	3,000,000	3,000,000	8,500,000	1,500,000	3,355,000	1,970,000	5,878,000	540,000

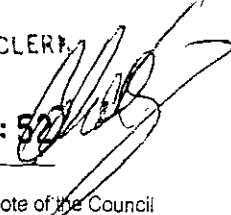
The total amount for streets in the CIP for the FY 2003-2005 budget is \$6.4 million. This figure includes a one-time \$5.3 million allocation from the Alameda County Transportation Improvement Authority (ACTIA) – Measure B. Without the ACTIA – Measure B allocation, which was a stand-alone project approved by voters when they reauthorized Measure B in November 2000, the street rehabilitation capital improvement budget is approximately \$1.1 million. Total funding in the FY 2003-05 budget will allow 122,553 square yards (approximately 5.8 centerline miles) to be resurfaced.

The following table shows the status of the current and near future projects for street rehabilitation.

Active Street Rehabilitation Projects

Description	Contract Amount	Centerline Mileage	Status	Estimated Completion Date
RABA Street Resurfacing (G235910)	\$1,029,002	2.5	In Construction	June 2004
CIP Street Resurfacing for FY 2003-2004 (C17180)	1,241,832	8	In Construction	November 2004
ACTIA Project 16 (C234930)	3,992,389	15	Awaiting Award	June 2005
CIP Slurry Seal for FY 2003-2005 (C234910)	1,140,000		Preparing the PS&E	June 2005
Street Condition Survey (C235010)	300,000	Citywide	Preparing the RFP	May 2005
Total	\$7,703,223			

OAKLAND CITY COUNCIL
RESOLUTION No. _____

FILED
OFFICE OF THE CITY CLERK
C.M.S.
OAKLAND
2004 MAY 27 PM 5:52


INTRODUCED BY COUNCILMEMBER _____

Requires two-thirds vote of the Council

RESOLUTION AUTHORIZING AWARD OF A CONSTRUCTION CONTRACT TO MCGUIRE AND HESTER FOR RESURFACING OF CERTAIN STREETS IN THE CITY OF OAKLAND FOR FISCAL YEAR 2003-2004 (PROJECT NO. C234930) IN THE AMOUNT OF \$3,928,797.40

WHEREAS, funding for street resurfacing has been appropriated in the fiscal year 2003-04 budget using Measure B (ACTIA) funds; and

WHEREAS, on January 5, 2003, four bids were received by the Office of the City Clerk of the City of Oakland for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930); and,

WHEREAS, **McGuire and Hester**, is the lowest responsible bidder for the project and has met the local/ small local business enterprise goals; and

WHEREAS, there are sufficient funds in Fund 2211, Org. 92480, Account 57411, Project C234930, for the construction work; and

WHEREAS, the engineer's estimate for the work is \$4,439,298.00; and

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

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

WHEREAS, the City Council finds and determines that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

WHEREAS, the performance of the services by contract is in the public interest because of economy or performance, and shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore be it,

RESOLVED: That the contract for the Resurfacing of Certain Streets in the City of Oakland for Fiscal Year 2003-2004 (Project No. C234930) is hereby awarded to **McGuire and Hester**, in accordance with the terms of its bid therefore, dated January 5, 2004 in the amount of three million, nine hundred twenty eight thousand, seven hundred ninety seven and 40/100 Dollars (\$3,928,797.40); and, be it


ORA/COUNCIL
JUN 1 2004

FURTHER RESOLVED: That the amount of the bond for faithful performance, \$1,964,399, and the amount for a bond to guarantee payment of all claims for labor and materials furnished and for amount due under the Unemployment Insurance Act, \$3,928,797.40, with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Manager is hereby directed to enter into a contract with **McGuire and Hester** on behalf of the City of Oakland and to execute any amendments, extensions or modifications of said agreement, within the limitations of the project specifications; and be it

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

FURTHER RESOLVED: That the Contract shall be reviewed and approved by the City Attorney 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; and be it

FURTHER RESOLVED: That the approval of this Resolution requires a two-thirds vote of the Council members.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

S-21
ORA/COUNCIL
JUN 1 2004

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California