



City Attorney's Office

## OAKLAND CITY COUNCIL

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

---

**RESOLUTION TO WAIVE ADVERTISING AND COMPETITIVE BIDDING AND INCREASE THE AS-NEEDED PAVEMENT REHABILITATION SERVICES CONTRACT WITH GALLAGHER & BURKE, INC. BY AN AMOUNT OF ELEVEN MILLION DOLLARS (\$11,000,000.00) FROM TEN MILLION, NINE HUNDRED AND NINETY-FOUR THOUSAND, SIX HUNDRED DOLLARS (\$10,994,600.00) TO A TOTAL CONTRACT AMOUNT OF TWENTY-ONE MILLION, NINE HUNDRED AND NINETY-FOUR THOUSAND, SIX HUNDRED DOLLARS (\$21,994,600.00).**

**WHEREAS**, on January 24, 2019, two bids were received by the Office of the City Clerk of the City of Oakland for the 2019 On-Call Citywide Pavement Rehabilitation Project; and

**WHEREAS**, on February 19, 2019, City Council awarded a contract in an amount not-to-exceed \$10,994,600.00 to Gallagher & Burk, Inc., a responsive and responsible, and certified LBE bidder; and

**WHEREAS**, the City seeks to continue to deliver pavement rehabilitation through this contract during the 2020 paving season and to increase the contract value by \$11,000,000.00; and

**WHEREAS**, Gallagher & Burk, Inc. complies with all LBE/SBLE and trucking requirements; and the street rehabilitation program works to preserve the City's infrastructure; and

**WHEREAS**, funding for this project is available in the following project account as part of FY 2019-21 budget in Measure KK Fund (5332), Engineer Design: Traffic / Parking Organization (92246), Account (54011), and Project No. 1001293; and

**WHEREAS**, the passage of the \$100M 3-Year Paving Plan in 2019 prioritized 100+ miles for rehabilitation and preventative maintenance, tripling the prior annual output; and

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

**WHEREAS**, the City would benefit from maintaining a list of pre-qualified contractors to perform paving work on an on-call basis so it can promptly respond to and provide construction services in an efficient and timely manner; and

**WHEREAS**, the City Council may waive the advertising and bidding requirements of the Oakland Municipal Code (OMC) under section 2.04.050.1.5 upon a finding that it is in the best interest to do so; and

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

**WHEREAS**, unit prices will be frozen at the 2019 competitively-bid contract amounts, representing a cost advantage for the City versus new unit prices on the open market; and

**WHEREAS**, meeting the City's ambitious paving mileage goals is a challenge and contractor availability is key to completing highly anticipated mileage in all Council districts and plan areas; and

**WHEREAS**, booking contracts with local firms now will help ensure their availability for the summer paving season; and

**WHEREAS**, the City is extending contract increases to all contractors that previously submitted bids to execute this work; and

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

**WHEREAS**, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service now, therefore, be it

**RESOLVED**, having found and determined that it is in the best interest to do so, the City Council waives further competitive bidding and advertising under section per Oakland Municipal Code (OMC) section 2.04.050.1.5; and be it

**FURTHER RESOLVED**: That the City Administrator is authorized to increase the award the construction contract with Gallagher & Burk, Inc. in the amount of eleven million dollars (\$11,000,000.00) and in accordance with the unit prices in the contractor's bid dated January 24, 2019; and be it

**FURTHER RESOLVED**: That the amount of the bond for faithful performance bond, 11,000,000.00; and the bond to guarantee payment of all claims for labor and material furnished and for the amount under the Unemployment Insurance Act, \$11,000,000.00 with respect to such work are hereby approved; and be it

**FURTHER RESOLVED**: The City Administrator, or designee, is hereby authorized to enter into a contract with Gallagher & Burk, Inc. on behalf of the City of Oakland and

to execute any amendments or modification of the contract within the limitation of the project specification; and be it

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

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California